

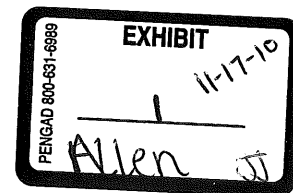
JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9

1. NAME: Kellum W. Allen  
BUSINESS ADDRESS: Lexington County Courthouse  
Lexington, S.C. 29072  
E-MAIL ADDRESS: kallen@sc.courts.org  
TELEPHONE NUMBER: (office): 803-785-8452
2. Date of Birth: 1951  
Place of Birth: Columbia, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on December 18, 1977, to Jane Inman Allen. Never divorced. Two children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) University of South Carolina, 1969-73, B.A. Political Science
  - (b) University of South Carolina, 1973-76, J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

South Carolina, admitted November 1976
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) Student Senate USC
  - (b) Founder of Bunch of Buddies (Big Brother/Sister type of organization)
  - (c) U.S. President's Committee on Children & Youth, 1970-72
  - (d) Tour Leader-Western Europe (Summers 1974 & 1975 for Osborne Travel)
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.



	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	S.C. Bar Mid-Year Family Law Section	01/21/05;
(b)	Family Court Judges Conference	04/27/05;
(c)	SCTLA Annual Convention	08/04/05;
(d)	Judicial Conference	08/25/05;
(e)	Family Court Bench/Bar Seminar	12/02/05;
(f)	S.C. Bar Family Law Section	01/26/06;
(g)	Family Court Judges Conference	04/26/06;
(h)	SCTLA Annual Convention	08/03/06;
(i)	Mini-Summit – Justice for Children	08/22/06;
(j)	Judicial Conference	08/23/06;
(k)	Family Court Bench/Bar Seminar	12/01/06;
(l)	S.C. Bar Family Law Section	01/25/07;
(m)	Family Court Judges Conference	04/25/07;
(n)	SCTLA Annual Convention	08/02/07;
(o)	Judicial Conference	08/22/07;
(p)	Family Court Bench/Bar Seminar	12/07/07;
(q)	S.C. Bar Family Law Section	01/27/08;
(r)	Family Court Judges Conference	04/23/08;
(s)	Judicial Conference	08/20/08;
(t)	Family Court Bench/Bar Seminar	12/05/08;
(u)	S.C. Bar Family Law Section	01/23/09;
(v)	Family Court Judges Conference	04/22/09;
(w)	Judicial Conference	08/19/09;
(x)	Family Court Bench/Bar Seminar	12/04/09;
(y)	S.C. Bar Family Law Section	01/22/10;
(z)	Family Court Judges Conference	04/22/10;
(aa)	Judicial Conference	08/19/10.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

Yes. I spoke at the "Cool Tips" Family Law CLE at the USC Law School on 4/25/03.

12. List all published books and articles you have written and give citations and the dates of publication for each. None

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

- (a) State Courts of South Carolina – November 5, 1976;
- (b) U.S. District Court for South Carolina – October 26, 1978;
- (c) U. S. Court of Appeals for the Fourth Circuit – November 1, 1978.

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated.



Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

- 1976-78      Greenville County Public Defender's Office – General Sessions & Family Court Juvenile;
- 1978-98      Kirkland, Wilson, Moore, Allen, Taylor, & O'Day, P. A. – General Trial Practice with emphasis on Civil & Family Court;
- 1998-Present      Family Court Judge, 11<sup>th</sup> Judicial Circuit – Seat 1.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have the broad experience needed by a Circuit Judge. Immediately, after law school, I worked for 2 years, first as an assistant and then was promoted to the position of Deputy Public Defender in Greenville County. These years were exclusively devoted to criminal cases. I tried dozens of cases in General Sessions of all types including murder.

Thereafter, I went into private practice from 1978-98 with the West Columbia law firm of Kirkland, Taylor, Wilson, Moore, and Allen. My practice was all types of litigation, particularly complex torts such as medical malpractice and products liability. I primarily represented plaintiffs, but I did some defense work, as well. This was in both Common Pleas and the Federal system. I maintained a substantial practice of Worker's Compensation, Family Court, and continued some criminal defense in General Sessions Court.

As you can see below, I handled appeals in all these areas, as well. During those 20 years, I served three stints as a Municipal Judge for the City of West Columbia where I presided over criminal jury trials, signed warrants, and set bonds.

Now in my 13<sup>th</sup> year as a Family Court Judge for the 11<sup>th</sup> Circuit, I have heard thousands of domestic cases, child support contempt

cases, DSS cases, and juvenile criminal cases in these years on the Bench.

Therefore, because I have substantial experience in all fields, I am immediately prepared and qualified to hear any matter that would come before the Circuit Court.

15. What is your rating in Martindale-Hubbell? AV

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?

- (a) federal: several times per year;
- (b) state: several times per week.

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?

- (a) civil: 60%;
- (b) criminal: 5%;
- (c) domestic: 35%;
- (d) other: 0%.

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 50%;
- (b) non-jury: 50%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole Counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Chambers of S. C., Inc. v Entrepreneur, Inc. 354 S.E. 2<sup>nd</sup> 921, 292 S.C. 97

My Client, the plaintiff, successfully appealed a directed verdict by the trial Judge. The South Carolina Court of Appeals reversed the trial Court and ruled for the plaintiff. This is a frequently cited case for the doctrine of apparent authority.

- (b) Accordini v Security Cent, Inc. 320 S. E. 2<sup>nd</sup> 713, 283 S.C. 16

My client, the plaintiff, successfully appealed the trial Court's sustaining of the defendant's demurrer. The case was reversed in favor of the plaintiff by the South Carolina Court of Appeals. This was an "important question of novel impression in South Carolina". It establishes law in the area of foreseeability and proximate cause.

- (c) Delk v South Carolina Farm Bureau Mutual Insurance Co. , Memorandum Opinion No. 91-MO-102 – The Delk Case went up on appeal to the South Carolina Supreme Court at the same time as South Carolina Farm Bureau Mutual Insurance Co. v Mooneyham, 405 S. E. 2<sup>nd</sup> 306 \_ S. C. \_

(1991). The position of my client, plaintiff, was affirmed by the Mooneyham decision. These cases established via declaratory judgment motorist's entitlement to stack underinsured motorist coverage.

- (d) Snipes v McAndrew, 313 S.E. 2<sup>nd</sup> 294, 280 S.C. 320 – My client, a school principal, was a companion case with Shaw v McAndrew, et al, 313 S.E. 2<sup>nd</sup> 294, 280 S.C. 320, in which the plaintiff was represented by current Supreme Court Chief Justice Toal. The case defined the parameters of the Teacher Employment and Dismissal Act. The litigation analyzed the Act with respect to Constitutional rights under the Fourteenth Amendment.
- (e) Hooper v Rockwell, 334 S.C. 281, 513 S.E. 2<sup>nd</sup> 358 (S.C., 1999) – I represented the plaintiffs in their successful TPR and adoption of children following DSS intervention. This case settled numerous questions in the TPR statute and is often cited by our Courts.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

- (a) Lacy W. Brigman, III v Amaryllis P. Brigman Ford, A. Lewis Powell and Mrs. Doris Powell, South Carolina Supreme Court, December 30, 1982, Memorandum Opinion 82-MO-390.
- (b) Tethel Strother v Columbia OB/GYN Associates, P. A. and John Hooker, Jr. M.D., Opinion No. 95-UP-098 (S.C. Ct. App. April 13, 1995).
- (c) South Carolina Dept. of Social Services v Wheaton, South Carolina Supreme Court, 474 S.E. 2<sup>nd</sup> 156 (1996).
- (d) Benton v. Roger C. Peace Hosp., 313 S.C. 520, 443 S.E. 2<sup>nd</sup> 537 (S.C., 1994).
- (e) Estate of Covington by Montgomery v AT & T Nassau Metals Corp., 304 S.C. 436, 405 S.E. 2<sup>nd</sup> 393 (S.C., May 06, 1991).

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.

- (a) The State of S.C. v Robert Earl Mauldin, Memorandum opinion No. 78-11.
- (b) The State of S.C. v Kirk R. Leonard and Richard E. Harrison, Jr., 287 S.C. 462, 339 S.E. 2<sup>nd</sup> 159 (1986).

22. Have you ever held judicial office?

- (a) Elected by City of West Columbia City Council to three stints as Associate Municipal Judge as follows with jurisdiction limited to traffic and minor criminal offenses:
  - (1) April 3, 1979-March 8, 1982;
  - (2) May 7 1991-March 3, 1992;
  - (3) September 15, 1994-April 10, 1995.
- (b) Elected by the S.C. Legislature to S.C. Family Court to three stints as follows:

- (1) July 1, 1998 – June 30, 2004;
  - (2) July 1, 2004 - June 30, 2010;
  - (3) July 1, 2010 - Present.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
  - (a) Daniel K. Brookshire, et al v. Toby Blackwell, et al (Op. No. 4587 – Filed 7/13/09);
  - (b) Matthew S. Walrath v. Stephanie A. Pope Op. No. 4562 – Filed 6/12/09);
  - (c) Kathleen M. Bartlett v. James P. Rachels (Op. No. 4303 – Filed 10/11/07);
  - (d) Don Allyn Ray v. Melinda Hodges Ray (Op. No. 26343 – Filed 6/25/07);
  - (e) Lyn Cherry Stribling as Personal Representative of Joseph Neal Stribling v. Linda Diane Stribling (Op. No. 4129 – Filed 6/26/06).
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? If so, give details, including dates.
  - (a) 1981-84 Lexington County Council Appointee to Lexington Medical Center Board of Trustees;
  - (b) 1988-91 Governor's Appointee to Joint Legislature Committee on Solid Waste;
  - (c) 1990-95 Governor's Appointee to Advisory Committee for the Improvement of Worker's Compensation Law.I have timely filed all required reports with the State Ethics Commission.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. None
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
  - (a) Candidate in 1980 for Republican nomination to South Carolina House of Representatives from Lexington County;
  - (b) Candidate for 11<sup>th</sup> Judicial Circuit Court – Seat 2. Found qualified by Judicial Screening Commission. Withdrew candidacy before General Assembly election in February 2006.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

None, other than part-time jobs while in college and law school. These part-time jobs were for South Carolina Farm Bureau, 1972-73; as a tour leader

in Western Europe in the summers of 1974 and 1975 for Osborne Travel; and for my father (an Exxon service station owner), 1969-76.

- 28. Are you now an officer or director or involved in the management of any business enterprise? No
- 29. A complete, current financial net worth statement was provided to the Commission.
- 30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.

I have recused myself routinely from any contested matter involving a former law partner and will continue to do so.

- 31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
- 32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
- 33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
- 34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

Members of my former law firm were sued, wherein the firm was a named defendant. None of said suits contained allegations involving me and I was not named a defendant.

In 2000, I was named a defendant with other law partners in the matter of Dial P. Rawl v. Stancel E. Kirkland, et al. The Docket No. was 2000-CP-32-0248. We counterclaimed. The matter was settled and dismissed with a mutual release. The plaintiff paid us as the Defendants to end all claims.

- 36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
- 37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
- 38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
- 39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or

a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Include the disposition, if any, of such charges or allegations. None

40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
  - (a) Honorary Member of Lexington County Bar Association, President 1986;
  - (b) S.C. Bar Association;
  - (c) S.C. Family Court Judges Association.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
  - (a) Mt. Hebron United Methodist Church – I have served as adult and youth Sunday School teacher, MYF leader, Lay Leader, and Chairman or member of numerous church committees including chairman of Church Council which is the administrative body of the church;
  - (b) Quail Hollow Community Association

- (c) Brookland-Cayce High School Foundation;
  - (d) Appointed by the S.C. Supreme Court as a member of the Commission on Lawyer Conduct;
  - (e) Appointed by the S.C. Supreme Court as a member of the Commission on CLE;
  - (f) Appointed by the S.C. Supreme Court as a member of the Commission on Judicial Conduct.
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
- I suppose my first notions of justice were formed as a child when I had the blessing and influence of growing up in a stable two-parent household. My parents with their marriage of 61 years lived lives which demonstrated fairness and compassion to all people which included a deep respect for each other.
- During my private practice of 22 years I represented many clients and participated in the management of the law firm. All of these experiences gave me a deeper understanding of business relationships and finances which has proven extremely valuable in my judicial career.
- Further, I feel certain that my wife of 32 years and I have gained maturity and wisdom in raising two children, ages 29 and 27. I have therefore experienced many of the day-to-day situations which surely confront litigants who appear before me.
50. References:
- (a) Bank Official – Wachovia Bank  
2806 Sunset Blvd.  
West Columbia, S.C. 29169  
803-353-6775 (O)
  - (b) D. Reid Ellis, Esquire  
400 Ravenel Street  
Columbia, S.C. 29205  
803-647-5839 (O)
  - (c) James H. Derrick, CPA  
455 St. Andrews Road  
Columbia, S.C. 29210  
803-798-0220 (O)
  - (d) Henry L. Deneen  
570 Coyote Willow Drive  
Colorado Springs, CO 80921  
719-488-4170
  - (e) Rev. John W. Culp  
2108 Bob White Lane  
West Columbia, S.C. 29169  
803-772-0794

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Kellum Allen

Date: September 7, 2010



JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Kellum Wright Allen  
Business Address: Lexington County Courthouse  
Lexington, South Carolina 29072  
Business Telephone: 803-785-8452

1. Why do you want to serve as a Circuit Court judge?

It has been a privilege and an honor to serve the public of South Carolina as a Family Court Judge. I believe I have the personal and professional experience as an attorney for 22 years and a Family Court judge for more than 12 years to render beneficial and impartial service.

I have the broad experience needed by a Circuit Judge. Immediately after law school, I worked for 2 years, first as an assistant and then was promoted to the position of Deputy Public Defender in Greenville County. These years were exclusively devoted to criminal cases. I tried dozens of jury trials in General Sessions of all types including murder.

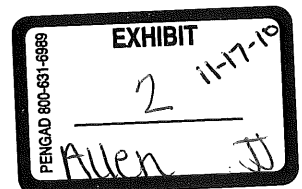
Thereafter, I went into private practice from 1978-1998 with the West Columbia law firm of Kirkland, Taylor, Moore, and Allen. My practice was all types of litigation, particularly complex torts such as medical malpractice and products liability. I primarily represented plaintiffs, but I did some defense work, as well. This was in both Common Pleas and the Federal system. I maintained a substantial practice of Worker's Compensation, Family Court, and continued some criminal defense in General Sessions Court.

I handled appeals in all these areas, as well. During those 20 years, I served three stints as Municipal Judge for the City of West Columbia where I presided over criminal jury trials, signed warrants, and set bonds.

Now in my 13<sup>th</sup> year as a Family Court Judge for the 11<sup>th</sup> Circuit, I have heard thousands of domestic cases, child support contempt cases, DSS cases, and juvenile criminal cases in these years on the Bench.

Therefore, because I have substantial experience in all fields, I am immediately prepared and qualified to hear any matter that would come before the Circuit Court.

2. Do you plan to serve your full term if elected? Yes  
3. Do you have any plans to return to private practice one day? Unknown  
4. Have you met the Constitutional requirements for this position regarding



- age, residence, and years of practice? Yes
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?
- I do not engage in verbal *ex parte* communications. Occasionally, emergency matters come before the Court based on written *ex parte* communications, but are followed by a hearing in which all parties may be heard.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
- Occasionally, lawyer-legislators appear before me. I have not recused myself in any such situation and have not been asked to do so. I have routinely recused myself on contested matters involving partners in the Granby Partnership which owned the building leased by my former law firm. Also, I have routinely recused myself in contested matters involving lawyers who were partners with me in my former law firm. Of course, I do not hear cases where either of my children makes an appearance as counsel of record.
7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?
- As a practical matter, I would be inclined to err on the side of the recusal.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?
- Before any such appearance might arise, I would request a judicial ethics advisory opinion.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?
- I accept no gifts. I would participate in Bar sponsored holiday social gatherings and I have attended the SC Trial Lawyers' Annual Convention as authorized by the Chief Justice.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
- I would consult and follow the ethical Canons.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No
13. If elected, how would you handle the drafting of orders?
- The prevailing attorney drafts the proposed order in accordance with my instructions. It is transmitted to opposing counsel for review before submission to me. Where necessary, I would draft my own

- orders with the assistance of my law clerk.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?
- My secretary, as directed by me, maintains contact with the attorneys to ensure their timely submission of orders pursuant to Court Administration requirements.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
- A judge should not engage in judicial activism and public policy should be set and promoted generally by other branches of government.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?
- I have spoken at a Bar CLE and have served two terms on the SC Commission of Continuing Legal Education as appointed by the SC Supreme Court. I am currently appointed by the SC Supreme Court as a member of the Commission on Judicial Conduct.
17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this? No
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
- a. Repeat offenders:
- Assuming repeat offenders are before the Court on similar or more serious offenses than their first offense, then in such a circumstance, repeat offenders should be sentenced more severely than first-time offenders.
- b. Juveniles (that have been waived to the circuit court):
- Such juveniles should be sentenced with weight accorded their age but also taking into account that the crime was of a degree that brought it to the Circuit Court level from Family Court. These and all other relevant factors would need to be weighed in the sentencing process.
- c. White collar criminals:
- After weighing all aspects of an offense together with any mitigating factors, criminal sentencing should be designed both as a punishment to the individual defendant and as a deterrent to criminal activity generally. These two criteria would govern sentencing in 18(c) and 18 (d).
- d. Defendants with a socially and/or economically disadvantaged background:
- After weighing all aspects of an offense together with any mitigating factors, criminal sentencing should be designed both as a punishment to the individual defendant and as a deterrent to criminal

activity generally. These two criteria would govern 18(c) and 18(d).

e. Elderly defendants or those with some infirmity:

Although, the basic philosophy of 18(c) and 18(d) still applies, some weight and common sense would dictate that punishment of these defendants would have lesser punishment effect and almost no deterrent effect; all at a considerable cost to the state.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
23. What do you feel is the appropriate demeanor for a judge?  
A litigant should perceive the judge to be fair, impartial, pleasant yet professional.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?  
Seven days a week, twenty-four hours a day.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?  
I feel a judge can and should voice firm disapproval on occasion, but it should not become anger which might prejudice judicial action.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No
28. Have you sought or received the pledge of any legislator prior to this date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
31. Have you contacted any members of the Judicial Merit Selection Commission? No
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE  
TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Kellum Wright Allen

Sworn to before me this 8<sup>th</sup> day of September, 2010.

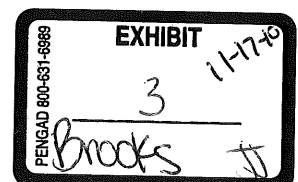
Notary Public for S.C.

My Commission Expires: 11/2015

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:  
Circuit Court, At-Large, Seat 9.

1. NAME: Charles "Chuck" Juel Brooks, II  
BUSINESS ADDRESS: 504 Gervais Street  
Columbia, S.C. 29201  
E-MAIL ADDRESS: UNClvr33@aol.com  
TELEPHONE NUMBER: (office): 803-252-1400
2. Date of Birth: 1961  
Place of Birth: Columbia, S.C.
3. Are you a citizen of South Carolina? Yes.  
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on January 22, 1994, to Anne Wilkins Brooks. Divorced in April 1992 in Richland County. Ms. Marion B. Brooks was the moving party. Three children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) University of South Carolina 1979-87, B.A. in History;
  - (b) Samford University-Cumberland School of Law August 1987-May 1988  
Left to attend University of South Carolina School of Law;
  - (c) USC School of Law August 1988-May 1990, J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
Admitted to practice in South Carolina in 1990.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) Phi Kappa Sigma Fraternity in undergraduate school;
  - (b) International Law Society;
  - (c) Student Bar Association;
  - (d) Phi Alpha Delta in law school.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.



- |     | <u>Conference/CLE Name</u>                | <u>Date(s)</u> |
|-----|---|----------------|
| (a) | Tips From the Bench and Bar               | 2005;          |
| (b) | The Unforgiving Minute with Jim Blackburn | 2005,12/13/00; |
| (c) | SC Family Court Bench and Bar             | 2005;          |
| (d) | Law Office Technology                     | 2006;          |
| (e) | Corporate, Banking and Securities Law     | 2006;          |
| (f) | Employment and Labor Law                  | 2006;          |
| (g) | Torts and Insurance Practice              | 2006;          |
| (h) | Breakfast Ethics Seminar                  | 2006;          |
| (i) | Consumer Law                              | 2007;          |
| (j) | Trial and Appellate Advocacy              | 2007;          |
| (k) | Torts and Insurance I                     | 2007;          |
| (l) | Torts and Insurance II                    | 2007;          |
| (m) | Breakfast Ethics Seminar                  | 2007;          |
| (n) | Attorney ECF Training                     | 2008;          |
| (o) | Family Court CLE                          | 2008;          |
| (p) | Ethics Seminar                            | 2008;          |
| (q) | 18 <sup>th</sup> Annual Criminal Practice | 2008;          |
| (r) | SC Bar Convention                         | 2009.          |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?  
Criminal Law at Orangeburg-Calhoun Technical College.
12. List all published books and articles you have written and give citations and the dates of publication for each. None
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before all State Courts of South Carolina in 1990;
- (b) Admitted to practice before the Federal District Court in 1992.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 1990-94 - Brooks Law Firm – I was an associate in a general practice with an emphasis on criminal and civil litigation;
- (b) 1994 – present – Law Offices of Charles J. Brooks, II – I am the owner of a general practice with an emphasis on criminal and civil litigation.
- If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:
- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of

your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have been a trial lawyer my entire legal career. I have tried many criminal matters in our Court system from the beginning of the cases at bond hearings; to preliminary hearings that deal with probable cause issues; to motions hearings that usually deal with evidentiary issues; to trials an/or pleas. I have also tried many civil cases in which I have represented Plaintiff's and Defendant's. I have represented clients in a range of cases that involve contractual disputes, personal injury and malpractice, family law, and probate.

15. What is your rating in Martindale-Hubbell? I have never sought a rating by Martindale-Hubbell.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?
- (a) federal: None;
  - (b) state: Twice per month.
17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?
- (a) civil: 45%;
  - (b) criminal: 45%;
  - (c) domestic: 5%;
  - (d) other: 5%.
18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: 75%;
  - (b) non-jury: 25%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) Betty Talbert v. Estate of William C. Talbert, Jr. – This case involved a doctor who was killed in an automobile accident and claims made



against his estate. His first wife had passed away and his children from that marriage were adults. His second marriage was to Betty Talbert. Lawsuits were filed in several different courts challenging the validity of agreements, property ownership and division of estate assets.

- (b) Pamela Black v. Wal-Mart – This case involved the false imprisonment and assault of a female minor child by a Wal-Mart employee. The child was accused of stealing merchandise from the store. Male security personnel detained her in a back room and forced her to lift her shirt and groped her private body parts for an extended amount of time. No store merchandise was ever found and she was not charged. Evidentiary issues along with discovery issues and jury charges were litigated.
  - (c) State v. Ervin Lopez – This was a criminal case in which Lopez was charged with kidnapping, assault and battery of a high and aggravated nature and grand larceny involving the defendant and the victim at an ATM machine. The case involved forensic DNA testing and video enhancement issues. Additional issues involving statements made and by the defendant, and character evidence were litigated at trial.
  - (d) State v. Felton Yawn – This was a drug case in which a Florida resident was stopped for speeding. The police were suspicious and arrested the defendant. An investigation ensued and the police entered a motel room where the defendant was staying and found a large quantity of drugs. Issues of search and seizure, and hearsay evidence were prevalent in this case.
  - (e) State v. Marjorie Laws – This drug case involved a woman who was selling drugs from her home near the police department. The police filmed this activity from the second story of the police department. A search warrant was executed and the police found a large quantity of drugs. Issues involved quashing the indictment; search issues; hearsay issues; and jury charge issues.
20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.  
I have limited my practice to the trial level only.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. I have limited my practice to the trial level only.
22. Have you ever held judicial office? No
24. Have you ever held public office other than judicial office?  
I was appointed to the Richland County Solid Waste Committee from 1991-95.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. Not applicable
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

Yes. I was a candidate for Circuit Court Judge in 2002, but withdrew my name from consideration.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

- (a) Security Federal Saving and Loan-1981-83-Real Estate Owned Administrator;
- (b) First South Saving Bank - 1983-85 - Loan Officer;
- (c) Fleet Real Estate Funding - 1986-87 - Loan Officer.

28. Are you now an officer or director or involved in the management of any business enterprise?

My wife and I own Palmetto Cove Investment Properties, LLC and Lehman Investment Properties, LLC. These entities own and develop real property.

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?  
No

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

I was sued for the construction and sale of my former home. The case was settled in 2005.

36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No

37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No

38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No

39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) S.C. Bar Association – former member of the Professional Responsibility Committee;
  - (b) Richland County Bar Association;
  - (c) Lexington County Bar Association.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Mt. Horeb United Methodist Church;

- (b) Aircraft Owners and Pilots Association;
  - (c) MSKP Foundation - Director.
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
50. References:
- (a) Bobby F. Roberson  
309 Columbia Avenue  
Lexington, S.C. 29072  
(803) 359-1604
  - (b) Scotty Mill  
1264 Morning Shore Drive  
Lexington, S.C. 29072  
(803) 309-0767
  - (c) David Shealy  
951 Old Cherokee Road  
Lexington, S.C. 29072  
(803) 413-9946
  - (d) Beth Hite Bayshore  
104 Garden Gate Way  
Lexington, S.C. 29072  
(803) 785-9810
  - (e) Reggie Enlow  
1212 Brady Porth Road  
Lexington, S.C. 29072  
(803) 673-6399

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: Charles J. Brooks, II

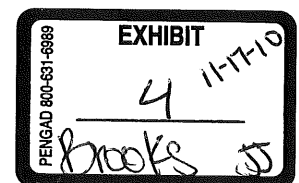
Date: September 10, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Charles "Chuck" Juel Brooks, II  
Business Address: 504 Gervais Street  
Columbia, South Carolina 29201  
Business Telephone: 803-252-1400

1. Why do you want to serve as a Circuit Court judge?  
I have practiced law for nearly 20 years and have thoroughly enjoyed it. However, I would like to serve the people of State of South Carolina as a fair and impartial judge. I feel honored to be considered a candidate for the position.
2. Do you plan to serve your full term if elected? Yes.
3. Do you have any plans to return to private practice one day?  
If I am elected, I do not currently have plans to return to private practice.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
I believe that *ex parte* communications should be avoided. However, there are very limited circumstances in which our laws and Judicial Canons permit such communications.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
I would not recuse myself solely because a lawyer-legislator appeared before me, unless other circumstances were present. Unless there is an actual conflict or bias, recusal is not a given. I would recuse myself from any cases that a former partner or associate had before me.  
I would avoid the appearance of any impropriety or bias.
7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?  
The matter would be fully disclosed on the record and I would hear from all parties. I would grant recusal if felt there was any actual bias. However, recusals would not be a given just because one party felt there was a potential of bias.



8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would not preside over a case that concerned a financial involvement of my spouse or close relative. I would not preside over a case that concerned the social involvement of my spouse or close relative if I felt I could not be unbiased and impartial.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would not accept gifts from anyone outside of my family or close personal friends and would be very careful regarding social hospitality outside of family and close personal friends. However, I do not believe it is improper to attend functions sponsored for the judiciary, such as the SC Bar Convention.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would discuss the misconduct with the lawyer or judge and notify the appropriate entity.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

I would ask one of the attorneys involved in the case to prepare a proposed order and discuss it with the other attorney's involved in the case before forwarding it to me. However, if it is more appropriate, I would draft the order.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would use a manual and computerized tickler system.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

A judge should be active in the improvement of the legal system. However, I do not believe that should display any activism from the bench. Each matter should be considered pursuant to the law and ruled upon fairly and impartially without regard to a judge's personal feelings.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would like to facilitate moving both criminal and civil cases more quickly through the courts without compromising the integrity of the system.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

I am sure that serving as a judge could potentially strain personal

relationships. However, judicial responsibilities should be discussed and any reservations or conflicts should be resolved prior to someone offering as a judicial candidate.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Each case should stand on its own merits. Mitigating circumstances would be taken into consideration, along with circumstances of current charges and pertinent information regarding past crimes.

b. Juveniles (that have been waived to the circuit court):

Each case would be considered individually. Mitigating circumstances would be taken into consideration, along with circumstances of aggravation. However, juveniles waived to circuit court are usually there because of the seriousness of the crime and this must also be taken into consideration.

c. White collar criminals:

Sentencing should not necessarily be any different than from any other type of crime. The sentence should be fashioned to fit the crime. Each case should be considered individually, taking mitigation and aggravation into consideration.

d. Defendants with a socially and/or economically disadvantaged background:

A disadvantaged background is not necessarily a reason to sentence differently than anyone else. However, it is a factor to be taken into consideration along with other factors. Each case should be considered individually taking circumstances of mitigation and aggravation into consideration.

e. Elderly defendants or those with some infirmity:

Being elderly or having an infirmity is not necessarily a reason to sentence differently than anyone else. However, it should be considered a factor in fashioning an appropriate sentence. Each case should be considered individually taking circumstances of mitigation and aggravation into consideration.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

A judge should be professional and polite. A judge should be courteous without sacrificing efficiency. A judge should be in control and impartial at all times.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

These rules apply at all times.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

Anger towards anyone is never an appropriate behavior for the administration of justice.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

Not applicable.

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.

31. Have you contacted any members of the Judicial Merit Selection Commission? No.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Charles "Chuck" Juel Brooks, II

Sworn to before me this 10<sup>th</sup> day of September, 2010.

Notary Public for S.C.

My Commission Expires: 9-17-2011 \_\_\_\_\_

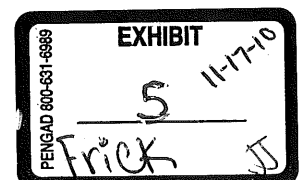


JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At large Seat #9

1. NAME: William Patrick Frick  
BUSINESS ADDRESS: PO Box 637  
Winnsboro, S.C. 29180  
E-MAIL ADDRESS: williampfrick@yahoo.com  
TELEPHONE NUMBER: (office) (803) 815-0796
2. Date of Birth: 1975  
Place of Birth: Sumter, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on July 5, 2002, to Ruxandra Elena Tudor. Never divorced. One child.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) University of South Carolina 1993-97 B.A. International Studies;
  - (b) USC School of Law 1997-2000 J.D.;
  - (c) USC Moore School of Business 1998-2001 MIBS/IMBA.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina 2001
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) Page- S.C. House of Rep. 1994-99; Assistant Chief Page;
  - (b) USC Student Government 1994-96 & 1998-2000; Senator;
  - (c) USC Debate Team 1993-94;
  - (d) Model United Nations 1995;
  - (e) Student Legislature 1993-1996;
  - (f) USC Law School Legislative Council 1997-2000; Representative.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.



- |  | <u>Conference/CLE Name</u>                         | <u>Date(s)</u> |
|--|--|----------------|
|  | (a) S.C. Association for Justice Annual Conference | 8/06/09;       |
|  | (b) S.C. Trial Lawyers Annual Conference           | 8/07/08;       |
|  | (c) S.C. Public Defender Assoc. Annual Conference  | 9/29/08;       |
|  | (d) S.C. Trial Lawyers Annual Conference           | 8/05/07;       |
|  | (e) S.C. Public Defender Assoc. Annual Conference  | 9/28/07;       |
|  | (f) ABA/YLD Fall Conference                        | 10/20/06;      |
|  | (g) Jessie's Law CLE                               | 6/30/06;       |
|  | (h) Prosecuting Homicide Case                      | 5/07/06;       |
|  | (i) S.C. Solicitor's Assoc. Annual Conference      | 9/25/05;       |
|  | (j) S.C. Methwatch Program                         | 3/11/05.       |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- No. I have spoken to school children, community groups, and law enforcement about various legal issues in the past.
12. List all published books and articles you have written and give citations and the dates of publication for each. No
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the State Courts of South Carolina in 2001;
- (b) Also admitted to practice before the Federal District Court for South Carolina in 2003.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 2001-02 Aiken County Public Defender  
Assistant Public Defender;
- (b) 2002-03 4<sup>th</sup> Circuit Solicitor's Office  
Assistant Solicitor-Gun Crime Prosecutor & Juvenile Prosecutor for Darlington County;
- (c) 2003-05 S.C. Office of the Attorney General  
Assistant Attorney General- general prosecution & animal fighting prosecutions;
- (d) 2005-06 6<sup>th</sup> Circuit Solicitor's Office  
Assistant Solicitor- Violent Crimes Prosecutor & Chief Prosecutor for Fairfield County;
- (e) 2006-09 Law Offices of Koon & Cook PA  
Associate & Winnsboro Office Manager  
General practice in criminal law, domestic law, personal injury, worker's compensation, and social security disability;
- (f) 2006-09 Lancaster County Public Defender

Assistant Public Defender (part time contract attorney);

- (g) 2009-Present 6<sup>th</sup> Circuit Public Defender

Assistant Public Defender & Chief Public Defender for Fairfield County.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Serving as a prosecutor in two judicial circuits, an Assistant Attorney General handling matters throughout the state, a public defender in two judicial circuits and a general practitioner attorney with a focus on criminal law, I have handled almost all criminal offenses from traffic tickets to murder. In my private practice I dealt with a wide variety of issues in personal injury from minor incidents to severely debilitating injuries, worker's compensation, limited work in contract disputes and researched areas of employment law. While my experience is clearly skewed toward criminal law, I feel that my work in civil matters is broad enough to ensure my competence with any civil matters before the bench.

15. What is your rating in Martindale-Hubbell?

Not rated, I have not found it necessary to subscribe to the services of Martindale-Hubbell.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: at least 5 times in district court and several times in social security disability hearings while in private practice;  
(b) state: at least weekly.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

- (a) civil: 20%;

- (b) criminal: 55%;
- (c) domestic: 25%.

These percentages reflect my work while in private practice. While working as a prosecutor or public defender my practice was 100% criminal

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 90%;
- (b) non-jury: 10%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Most often served as sole counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) The State v. David Ray Tant- I served as lead counsel for the S.C. Attorney General's Office in this matter in Charleston County in which the defendant was charged with some 40 counts of animal fighting. This was the largest animal fighting case in South Carolina history and received extensive national media attention, as the defendant was alleged to be one of the top breeders of fighting dogs in the country. Due to the media attention, the venue of the trial was moved to Greenwood County. The defendant pled guilty at the close of the State's case and received a sentence totaling 40 years in the S.C. Department of Corrections, the largest sentence for animal fighting in South Carolina and one of the largest in the United States.
- (b) The State v. Bobby Ray Hill-I served as sole counsel for the 6<sup>th</sup> Circuit Solicitor's Office in this case in Fairfield County in which the defendant was charged with a double homicide. The defendant confessed shortly after his arrest, but due to a history of serious mental health issues pled Guilty But Mentally Ill (GBMI) to the charge of Murder. GBMI requires a showing of certain circumstances at a special hearing to determine the applicability of this type of plea. The defendant appealed his plea, but the S.C. Court of Appeals declared the appeal meritless and upheld the conviction in an unpublished opinion. 2008-UP-453.
- (c) The State v. Jerry McGriff-I served as sole counsel and represented the defendant charged with murder in Lancaster County. While there was little forensic evidence, witnesses stated that the defendant and another person, who was not on trial, were involved in an argument with the victim, yet there were no eye witnesses to the fatal shooting. The State proceeded and ultimately prevailed on accomplice liability theory stating that while no one could determine who was the actual shooter and the defendant did not intend to kill the victim, the defendant arrived at the victim's location to start a fight and the death of the victim was an expected result of those actions.

- (d) The State v. Randolph Frazier- I represented this defendant as sole counsel in three separate trials in Lancaster County for Burglary First Degree. Each trial had unique issues regarding eye-witness identification and dog tracking evidence. Dog tracking evidence has very little case law history in South Carolina and I was required to request the court to apply legal precedent from other jurisdictions about search and seizure issues regarding the taking of sent from the defendant and a jury charge regarding the use of dog tracking evidence. While my client was acquitted at the first trial and the jury could not reach a verdict in the second trial, the State ultimately succeeded in convincing a jury of his guilt in the third trial.
- (e) The State v. Larry William Smith-I served as sole counsel for the S.C. Attorney General's Office in this case in Darlington County in which the defendant was charged with Criminal Sexual Conduct with a Minor. The defendant was alleged to have forced the 12 year old victim into his house where he sexually assaulted the victim. The defendant maintained that the victim wanted to have sex with him, but he refused to do so and the victim made up this story as a result. As these cases are always quite difficult to prosecute, the State was fortunate to have DNA evidence, however the results stated that the likelihood of finding a person with similar DNA was 1 in 1200, whereas, the typical results in a successful prosecution put this likelihood to be 1 in several quadrillion. Despite these difficulties, the defendant was convicted of the charge.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.  
No civil appeals handled
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. No criminal appeals handled
22. Have you ever held judicial office? If so, list the periods of your service, the courts involved, and whether you were elected or appointed. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court. No
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. None
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

I announced I would run as a candidate for S.C. House of Representatives Seat #41 in the 2008 election, however, I ultimately did not file to run. In 2009, I was a candidate for Circuit Court at Large Seat #8. I was found qualified, but not nominated by the committee.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

In 2000, after graduation from law school, I worked as an intern for a multichannel clothing retailer, Peter Hahn GmbH, in Winterbach, Germany, in the area of international market expansion while working towards my degree in MIBS/IMBA.

In the fall of 2001, after graduation from the MIBS/IMBA program I opened and operated a retail establishment in the 5 points area of Columbia, S.C. specializing in the sale of "American Roots" music (country, blues, bluegrass). I closed the business when I moved to work for the 4<sup>th</sup> Circuit Solicitor's Office.

28. Are you now an officer or director or involved in the management of any business enterprise?

I currently own and operate residential rental properties in the Winnsboro area.

29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals,

beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No

39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
  - (a) Fairfield County Bar- Secretary (2006-present);
  - (b) S.C. Association for Justice.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
  - (a) Winnsboro Rotary Club- President;

- (b) Fairfield Behavioral Health Services- Chairman - Board of Directors;
- (c) First Steps of Fairfield County-Chairman - Board of Directors;
- (d) Pine Tree Players- Board of Directors.

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

In my career, I have thus far handled legal matters in some 30 of the 46 counties of our State. In each county, I have heard someone say that some particular issue "only happens in..." I can expressly say that in my experience that the judicial system essentially metes out justice in the same way, with the same type of cases, and the same circumstances throughout South Carolina. With my experience I can most assuredly say that defendants are rather much the same throughout the state, law enforcement proceeds in much the same way throughout the state, cases are prosecuted and defended in rather much the same way, and all entities are suffering from a want of funding, whether perceived or real. However, I have found that, particularly in the world of prosecution and public defenders, information is not readily exchanged on how to deal with particular issues. I would like to work toward the facilitation of the exchange of ideas that would help in expediting the handling of cases in our legal system. I would particularly like to do this in the criminal justice system and would like to work toward seeing "best practices" in all facets of the justice system, criminal and civil, implemented for the betterment of the seeking of justice for all involved in our court systems be they civil litigants, victims of crime, or criminal defendants.

50. References:

- (a) Ms. Susan Taylor  
Provident Community Bank  
801 US Hwy 321 Bypass South  
Winnsboro, S.C. 29180  
(803) 712-1261
- (b) Mr. Robert C. FitzSimons, Esq.  
1001 Beltline Blvd  
Columbia, S.C. 29205  
(803) 815-0796
- (c) Mr. M. Paul Swearingen, Esq.  
4402 Newberry Road  
Winnsboro, S.C. 29180  
(803) 635-5801
- (d) Mr. Michael H. Lifsey, Esq.  
PO Box 1809  
Lancaster, S.C. 29721  
(803) 285-5585



(e) Mr. T. DeWayne Pearson, Esq.  
PO Box 11549  
Columbia, S.C. 29211  
(803) 735-7135

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: William Frick

Date: September 9, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: William Patrick Frick  
Business Address: PO Box 637  
Winnsboro, SC 29180  
Business Telephone: (803) 815-0796 or (803) 285-5585

1. Why do you want to serve as a Circuit Court judge?

Learning from the example of my father who has worked in local government in this state for the past 30 years, I have always wanted to be in public service. Thus far in my career I have served as an Assistant Solicitor, Assistant Attorney General, public defender and as private counsel. Outside of work, I serve on local boards of organizations working to improve quality of life in my community. I believe that the honor of serving as a judge is an excellent way for me to utilize the experiences I have already gained to serve my state.

2. Do you plan to serve your full term if elected? Yes

3. Do you have any plans to return to private practice one day?

While I would envision remaining on the bench for the remainder of my career, I cannot say that there would be no circumstance in which I would return to private practice.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

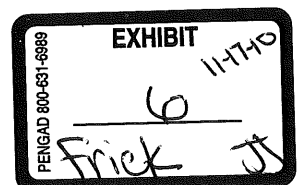
I meet all requirements as established in the Constitution

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I believe the prohibition of *ex parte* communication should be inflexible. If a judge is discussing a case with one party then the opposing counsel should be a party to that conversation. With the exception of where *ex parte* communication is allowed by law, such as the procurement of money for the defense of indigents, I could not foresee a circumstance where *ex parte* communication would be tolerated.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

As long as the judge ensures fairness in the process, I do not see



any per se reason that a judge should recuse himself in a case involving a lawyer-legislator. Matters involving former associates or law partners are probably best handled on a case by case situation. However, regardless of the judge's feelings, should a party to the matter request recusal the judge should consider this motion to prevent even an appearance of impropriety, if the motion has merit and is not simply a method of delay.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I believe that the judicial system must be above the appearance of impropriety, therefore, given the situation outlined in this question, should a party request my recusal I would grant such a motion.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I believe that this situation would call for recusal regardless of whether or not it had been requested by a party to the matter at bar.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

The judicial canons and state law are fairly specific in limiting what a judge can and cannot accept in regard to gifts and social hospitality and I would follow those canons and statutes implicitly.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

As an allegation of misconduct is quite serious, I would first ensure that what I knew was in fact the truth. If I determined that issue was true, I would probably confront the lawyer or judge regarding the issue and request that person to rectify the situation and self report the matter to the appropriate office. However, I would not have a problem reporting it myself should the situation necessitate that action.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

As dictated by the judicial canons, I would not be involved in any political activities and would remove myself from any boards or organizations which could cause any conflict of interest regarding their political activity.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I own and operate residential rental properties in the Winnsboro area. I would anticipate remaining involved in that activity as time permits me to do so.

13. If elected, how would you handle the drafting of orders?

While there are certainly circumstances when orders must be drafted by the judge, most matters in General Sessions and Common Pleas court can be handled by counsel involved in the matter with review and revision as necessary by the opposing counsel and approval by the judge.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

The practice of law and life in general is full of deadlines. I find that simply maintaining a daily calendar is the most helpful way to ensure that deadlines are met.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I believe the role of the judiciary is quite clear and that role does not call for "judicial activism", but in interpreting and applying the law as written. Should a judge wish to write law, he would best be served in this purpose by becoming a legislator.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

It is said the wheels of justice turn slowly and while there should not be a rush to judgment, anything to expedite justice in our legal system should be done by the judge to help alleviate the perception of a lack of justice in society. This includes the implementation of efficient technology and working to control the dockets in civil and criminal court as permitted by the rules of court and state statute.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

While the pressure of serving as a judge is tremendous, any career in public service has its stresses and strains on personal relationships. I do not believe that serving as a judge would present any stresses or strains that could not be overcome or that I have not already dealt with thus far in my career.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

This is clearly the most frustrating class of offender. Enhanced sentencing is the traditional method for dealing with this situation, however, I do not believe that it is nor has it served as a cure all for this particular offender. Many times this situation is caused or contributed to by untreated drug addiction or untreated mental illness. While treatment does not guarantee success, failure of society to provide

these tools to a willing participant only exacerbates these problems.

b. Juveniles (that have been waived to the circuit court):

While I would certainly pass sentence appropriate to the offense and in accord with the law, it must be understood that this offender will more than likely return to society some day and the court should ensure that the tools that are available to become a productive citizen are made available to prevent this juvenile from becoming a recidivist.

c. White collar criminals:

The actions of these offenders are no less criminal than the masked man who robs at gunpoint in the dark of night, and in many circumstances has victimized many more and for far higher amounts than the gunman. Therefore, he should not be accorded any different treatment or special consideration because his offense occurred without a weapon in the light of day.

d. Defendants with a socially and/or economically disadvantaged background:

Many, if not the majority, of defendants in our criminal justice system come from economically or socially disadvantaged situations. While a defendant may have an explanation for his criminal acts due to economic or social circumstances, it nonetheless is still a criminal act and cannot be excused simply because a person is disadvantaged.

e. Elderly defendants or those with some infirmity:

Age or infirmity can be a factor in determining sentence if doing so would be an appropriate consideration in light of the offense to avoid undue cost and burden to the taxpayer. However, these factors in and of themselves should not be used to lessen a sentence when a particular sentence is appropriate.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

I have a few small investments in common stock and investments in residential rental properties; however, I cannot anticipate a situation where these investments would impair my impartiality.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

De minimis is a relative term and I would hold by the standard I stated in previous questions. Even if I feel that my interest would not cause any prejudice or impartiality on my part, I would consider recusal should the issue be raised by a party in the case.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes, and I most often exceed the minimum hours required for legal education courses.

23. What do you feel is the appropriate demeanor for a judge?

Overall a judge must be fair. Despite the many unsavory issues which must be handled on a daily basis, the judge must treat all parties evenhandedly without any appearance of favoritism. A judge must earn respect by showing respect to all parties and persons. A judge must be the manager of the courtroom and must maintain order of that courtroom. In that regard, a judge must sometimes be firm and must make decisions that some will probably not like. However, when done appropriately a judge will still maintain control and earn respect.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

These rules are simple ethics for maintaining the sanctity of our judicial system and the basic ethics of everyday life; therefore, they would apply each hour of each day.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

Anger is a natural feeling and it is perfectly natural to become angry with any person. However, the difficulty arises in the expression of that anger. I do not feel that it is appropriate and that it is contrary to the professionalism of the judiciary to publicly express that anger. Even in the most heinous situations, I do not feel it is appropriate for a judge to express anger toward a criminal defendant, nor is it appropriate to express anger toward a pro se litigant. While attorneys can try the nerves and patients, it would not be appropriate to allow an attorney to drive a judge to a public expression of anger. Should a judge reach a point when he feels he must address the issue causing the anger, it would be appropriate for the judge to request the attorneys involved to meet in chambers with the judge.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

Aside from paper and postage, I have expended no funds on my campaign and certainly have not exceeded \$100.00

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

Not applicable

28. Have you sought or received the pledge of any legislator prior to this date? No

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No

30. Have you asked any third parties to contact members of the General

Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No

31. Have you contacted any members of the Judicial Merit Selection Commission? No

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/William Patrick Frick

Sworn to before me this 10<sup>th</sup> day of September, 2010.

Notary Public for S.C.

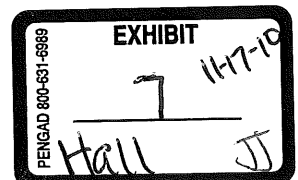
My Commission Expires: 6-2-2019\_\_\_\_\_

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9

1. NAME: Daniel Dewitt Hall  
BUSINESS ADDRESS: Moss Justice Center  
1675-A York Highway  
York, S.C. 29745  
E-MAIL ADDRESS: dan.hall@yorkcountygov.com  
TELEPHONE NUMBER: (office): 803-628-3173
2. Date of Birth: 1954  
Place of Birth: York, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on February 26, 1977, to Cathleen McCreight Hall.  
Never divorced. Four children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
(a) Clemson University 1972-76 B.S. Animal Science;  
(b) Campbell University School of Law 1985-88 J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
(a) South Carolina 1988;  
(b) North Carolina 1988
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
Clemson University Animal Science Club - 1972-76 President, Treasurer  
Campbell University School of Law  
(a) Christian Legal Society 1985-88 President, Vice-President;  
(b) National Trial Team - Spring 1988;  
(c) Member Law School Dean Search Committee - Spring 1988.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.





- |  | <u>Conference/CLE Name</u>                         | <u>Date(s)</u>    |
|--|--|-------------------|
|  | (a) 2009 Annual Solicitor's Association Conference | 9/27/-9/30, 2009; |
|  | (b) 2008 Annual Solicitor's Association Conference | 9/28-9/30, 2008;  |
|  | (c) Evidence for Prosecutors – Tucson, Arizona     | 11/4-11/8, 2007;  |
|  | (d) 2007 Annual Solicitor's Association Conference | 9/23/-9/26, 2007; |
|  | (e) 2006 Annual Solicitor's Association Conference | 9/24/-9/27, 2006; |
|  | (f) 2005 Annual Solicitor's Association Conference | 9/25/-9/28, 2005. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? None
12. List all published books and articles you have written and give citations and the dates of publication for each.
- Clergy Confidentiality: A Time to Speak and a Time to Be Silent, by Lynn Buzzard and Dan Hall, 1988 Christian Management Association.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) S.C. State Courts November 16, 1988;
- (b) North Carolina State Courts August 19, 1988.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1988-90;
- (b) Sole Practitioner 1991-99;
- General practice with focus on personal injury, worker's compensation and criminal defense;
- (c) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1999-present.
- If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:
- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you

to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have been an Assistant Solicitor for the past eleven years. I currently prosecute class A, B, or C felonies. I am employed as an assistant solicitor. I have no experience in civil matters in the past five years. I was in private practice from 1991–99 and had a limited experience in the court of common pleas. My practice included criminal defense, personal injury, probate and some limited litigation in common pleas. I took and passed the North Carolina and S.C. Bar exams during the same week in 1988. I believe that I have the intellectual ability to quickly develop the necessary skills to preside in common pleas court.

15. What is your rating in Martindale-Hubbell? None.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?

- (a) federal: 0%;
- (b) state: 100%.

17. What percentage of your practice involved civil, criminal, and domestic matters during the past five years?

- (a) civil: 0%;
- (b) criminal: 100%;
- (c) domestic: 0%.

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 10%;
- (b) non-jury: 90%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel

19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) State v. Russell Holley 2002 GS 46 0698  
Murder trial in which boyfriend stabbed girlfriend to death in a rage of domestic violence. Defendant was sentence to life without parole
- (b) State v. Aaron Williams 2003 GS 46 2745  
Burglary First Degree trial in which a seventy year old widow's home was invaded while she was alone. Victim was physically attacked. Defendant was sentence to a thirty year prison sentence.
- (c) State v. Sakima McCullough 2006 GS 46 0110

Burglary First Degree, Armed Robbery and Kidnapping trial in which the defendant was involved in a home invasion, robbery and assault on the victim. Defendant was sentenced to a thirty year prison sentence.

- (d) State v. Edward Miller 2003 GS 46 0557

Defendant was charged with murder. The case was tried by the grand jury. In preparing for trial and investigating this case evidence was discovered absolving this defendant of the murder. The defendant had been wrongfully charged. I dismissed this case.

- (e) State v. Penny Sue Price 1994 GS 46 2784

I defended at trial an indigent, mentally handicapped defendant charged with threatening public housing officials. The defendant was found not guilty at trial.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

None

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. None

22. Have you ever held judicial office?

Yes. Municipal Judge – City of York, S.C. – appointed by York City Council. January 1993 – May 1999. Signed criminal warrants, set bonds and held preliminary hearings for General Sessions criminal matters occurring in the city limits. Presided over plea court, bench trials and jury trials for criminal or traffic charges in the City of York in which the statutory penalty was no greater than 30 days in jail or the fine was not more than \$200.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions. None

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?

Never held public office.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.

Self employed attorney – sole practitioner 1991-99. My position as York Municipal Judge required 8-10 hours per week of municipal court duties in addition to my private practice.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

- (a) Republican Primary candidate for Solicitor, Sixteenth Judicial Circuit, June 1996.
  - (b) Candidate for Judge, Sixteenth Judicial Circuit Family Court, 1998, withdrew.
  - (c) Candidate for Judge, Circuit Court At-Large, Seat 9, March 2006  
Qualified but not nominated.
  - (d) Candidate for Judge, Circuit Court At-Large, Seat 6, January 2009  
Qualified and nominated, withdrew prior to February election.
  - (e) Candidate for Judge, Circuit Court At-Large, Seat 8, January 2010  
Qualified but not nominated
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?
- (a) Goodson Farms, Inc.–Turkey, N.C., 1976-78, Cattle Manager;
  - (b) Farmer’s Meat Center–York, S.C., 1978-83, Meat business, supervisor;
  - (c) York County Credit Bureau, Inc.–York, S.C., 1983-85, Owner and Manager.
28. Are you now an officer or director or involved in the management of any business enterprise? No
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country’s law?  
Yes, Hunting Deer over Bait. October 13, 2006. Found guilty at bench trial paid court costs.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?  
Yes, during my employment as York Municipal Judge, I was a named defendant in a federal lawsuit filed by a disgruntled criminal defendant. He named every elected official and judge in York County in the lawsuit.
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No

37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Include the disposition, if any, of such charges or allegations. None
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) York County Bar Association, Treasurer, 1992;

- (b) S.C. Bar Association;
  - (c) North Carolina Bar.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Filbert Presbyterian Church, Clerk of Session
  - (b) York County Beekeepers Association
  - (c) National Cutting Horse Association

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

Having grown up in a rural environment learning farm work and land surveying from my father, I continued to do farm work, textile mill work and land surveying through high school and college. Prior to attending law school, I managed a cattle operation, worked in a meat processing business and operated a local credit reporting and collection business. In these years, I married my wife of now thirty-one years and we had three small children. Having read and seen the need for attorneys with integrity to fill the ranks of our justice system, I then made the decision to attend law school. I began law school as a thirty year old father to three small children and my wife and I had our fourth child during the law school years. I took and passed the South Carolina and North Carolina bar exams in July 1988.

Since my time as a lawyer, my family has now grown to four married children, their spouses and seven grandchildren. I have deeply enjoyed my work as a public servant as a private attorney, municipal judge and an assistant solicitor in the Sixteenth Judicial Circuit Solicitor's office.

My life experiences give me a deep understanding and appreciation for people from all walks of life. I have been privileged to work with men and women from a broad variety of social and economic backgrounds. The courtrooms of this state belong to such people, and circuit court judges serve those as well the professionals that conduct the business of the courts. I believe I am prepared and have the ability to serve as a circuit court judge with both common sense and experienced knowledge of the law. My commitment to justice and serving the common man has well suited me to be a circuit court judge. I would be honored to serve.

50. References:

- (a) Harry A. Dest  
Chief Public Defender  
Moss Justice Center  
York, S.C. 29745  
803-28-3031
- (b) Twanna N. Burris  
Attorney at Law

P.O. Box 10311  
Rock Hill, S.C. 29731  
803-980-0100

(c) Dr. Russell W. Booker  
Superintendent  
Spartanburg School District Seven  
610 Dupre Drive  
Spartanburg, S.C. 29307  
864-594-4400

(d) Rev. H. Wallace Tinsley  
1399 Filbert Hwy  
York, S.C. 29745  
803-684-3600

(e) Wachovia  
Clover Financial Center  
Attn: Parks Parrish  
203 Bethel Street  
Clover, S.C. 29710  
803-222-4571

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Daniel D. Hall

Date: August 31, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

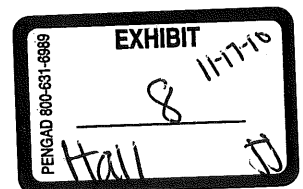
Full Name: Daniel Dewitt Hall  
Business Address: Moss Justice Center  
1615-A York Highway  
York, South Carolina 29745-7422  
Business Telephone: 803 -628-3173

1. Why do you want to serve as a Circuit Court judge?  
I have the strong desire and ability to provide litigants in Common Pleas with a fair and impartial forum to settle their civil disputes and to be a conduit for justice in General Sessions court.
2. Do you plan to serve your full term if elected? Yes
3. Do you have any plans to return to private practice one day?  
Possibly on a limited basis upon retirement.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Ex parte communications are improper except where permitted by law. They are tolerated in certain temporary restraining order circumstances and issues involving appointment of experts in criminal cases. A judge should not initiate, permit or consider ex parte communications, except that: under certain circumstances for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits ... with certain provisions of notice to both parties and no procedural or tactical advantage gained.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

A judge should recuse himself in cases involving former associates or law partners. Every judge has a certain degree of conflict with lawyer-legislators who have elected or will reelect that judge. Recusal in those situations would be appropriate if there is a close relationship with the lawyer-legislator. A judge should not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. Recusal is not necessary if the judge can maintain fairness and impartiality to all parties.





7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?  
Yes, I would grant the motion for recusal.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?  
I would recuse myself from that matter.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
I would not accept gifts and social hospitality would be limited to functions open to all bar members.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
I would report that misconduct to the appropriate disciplinary commission.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.
13. If elected, how would you handle the drafting of orders?  
I have the ability to draft orders, however, the normal practice is for the prevailing party in a matter to draft an order, have it reviewed by opposing counsel and presented to the judge for a final review and signature.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?  
I am computer literate and would rely on computer systems to organize my work.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
I believe that "judicial activism" is improper. Public policy is promoted and legislated by our legislative branch of government.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?  
I will participate in any activity available to circuit court judges that will allow me to offer input into improvements of the legal system.
17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this? No
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.  
a. Repeat offenders:

Sentencing of repeat offenders depends on the nature of prior offenses and nature of new offenses. However, repeat offenders may demonstrate an inability or unwillingness to conform to the rules of our society or may be dangerous to the community.

b. Juveniles (that have been waived to the circuit court):

Sentencing of juveniles waived to circuit court is often dependant on family and community support structure available to a sentenced juvenile. It also depends on the nature of the particular offense.

c. White collar criminals:

White collar criminals are a danger to the community. However, probationary sentences with significant jail time suspended are often appropriate.

d. Defendants with a socially and/or economically disadvantaged background:

Depends on the nature of the crime. Violent offenders need to be treated equally without regard to social or economic status. Support from community and family is important in sentencing non-violent offenders.

e. Elderly defendants or those with some infirmity:

Depends on the nature of the crime. House arrest or probationary sentences will often be sufficient protection for the community.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
23. What do you feel is the appropriate demeanor for a judge?  
A judge should be fair and impartial. He should treat attorneys, litigants, court personnel and the public with patient respect.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?  
Twenty-four hours, seven days a week.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants? No
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
28. Have you sought or received the pledge of any legislator prior to this

- date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
31. Have you contacted any members of the Judicial Merit Selection Commission? No
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Daniel Dewitt Hall

Sworn to before me this 30<sup>th</sup> day of August, 2010.

Notary Public for S.C.

My Commission Expires: 3-8-2020\_\_\_\_\_

DONALD B. HOCKER  
P.O. BOX 972  
LAURENS, SOUTH CAROLINA 29360

October 20, 2010

Ms. Jane O. Shuler  
Chief Counsel  
S.C. Judicial Merit Selection Commission  
P.O. Box 142  
Columbia, S.C. 29202

Re: Letter of Amendment  
Circuit Court At Large-Seat 9

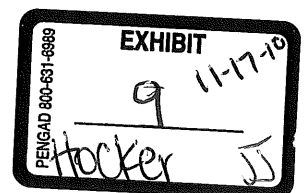
Dear Jane:

I wish to amend Paragraph 17 of my PDQ to add 10% of my practice being devoted to serving as Associate Probate Judge.

Cordially,

Donald B. Hocker

DBH/dh



JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9.

1. NAME: Donald B. Hocker  
BUSINESS ADDRESS: Post Office Box 972  
Laurens, S.C. 29360  
E-MAIL ADDRESS: dbhattorney@backroads.net  
TELEPHONE NUMBER: (office): 864-984-4574
2. Date of Birth: 1952  
Place of Birth: Waltham, MA
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on July 17, 1976, to Susan Gayle Lindler Hocker.  
Never divorced. Two children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) Clemson University, 1971-75, Bachelor of Arts
  - (b) Clemson University, 1975-76, Masters in Education
  - (c) University of South Carolina School of Law, 1978-80, JD
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina, 1981
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) (College) Clemson University: Kappa Alpha Fraternity, 1972-75, Recording Secretary;
  - (b) (Graduate) Clemson University: Graduate Assistant/Instructor 1975-76;
  - (c) (Law School) USC: Wig and Robe, 1980; Moot Court Board, 1980; Mock Trial Competition, 1980.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	S.C. Association of Probate Judges	02/19/02;
(b)	S.C. Probate Bench/Bar	09/13/02;
(c)	Annual Judicial Conference	09/22/02;
(d)	S.C. Association of Probate Judges	03/25/03;
(e)	S.C. Association of Probate Judges	05/16/03;
(f)	FN-Real Estate	02/07/03;
(g)	S.C. Probate Bench/Bar	09/12/03;
(h)	Annual Judicial Conference	09/21/03;
(i)	S.C. Association of Probate Judges	02/04/04;
(j)	Judicial Oath of Office	10/11/04;
(k)	S.C. Probate Bench/Bar	09/17/04;
(l)	Annual Judicial Conference	10/10/04;
(m)	Lawyer's Oath of Office	09/24/04;
(n)	S.C. Association of Probate Judges	02/28/05;
(o)	LandAmerica-Title Insurance	09/14/05;
(p)	S.C. Probate Bench/Bar	09/16/05;
(q)	Annual Judicial Conference	09/21/05;
(r)	S.C. Association of Probate Judges	02/06/06;
(s)	LandAmerica-Title Insurance	08/23/06;
(t)	S.C. Probate Bench/Bar	09/15/06;
(u)	Annual Judicial Conference	10/04/06;
(v)	S.C. Probate Bench/Bar	09/14/07;
(w)	S.C. Association of Probate Judges	02/13/07;
(x)	Annual Judicial Conference	09/09/07;
(y)	S.C. Probate Bench/Bar	09/14/07;
(z)	S.C. Association of Probate Judges	02/05/08;
(aa)	S.C. Association of Probate Judges	09/12/08;
(bb)	S.C. Association of Probate Judges	02/24/09;
(cc)	S.C. Association of Probate Judges	09/11/09;
(dd)	S.C. Association of Probate Judges	10/18/09;
(ee)	S.C. Association of Probate Judges	05/07/10.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

- (a) 1999-Jury Trials in Probate Court;
- (b) 2000-Basic Evidence in Probate Court;
- (c) 2001-Order Writing;
- (d) 2002-Contempt Issues in Probate Court;
- (e) 2003-Will Construction Cases;
- (f) 2006-Awarding Attorney's Fees in Probate Court;
- (g) 2007-Reopening the Record, Contempt Revisited, Pro Se Litigants, Brown v. Coe;
- (h) 2009-Probate Court Bench Bar (September 2009).

12. List all published books and articles you have written and give citations and the dates of publication for each. None
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
  - (a) South Carolina State Courts: May 14, 1981;
  - (b) U.S. District Court: September 10, 1981;
  - (c) U.S. Supreme Court: October 11, 1994.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

May 15, 1981 to current: I have been a sole practitioner in Laurens, S.C. I have had a general practice with significant experience in Circuit Court—both criminal and civil. I have also been the Associate Probate Judge for Laurens County since March of 1984 which will be discussed later.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Criminal: I would incorporate by reference my response to Question 19 (c) and (d) concerning two significant cases in General Sessions that I have handled. I have represented criminal clients in General Sessions (and even Magistrate's Court) my entire practice. I typically will receive 8-12 court appointments a year and approximately at least this same number of privately-paid cases annually. I have represented clients charged with a variety of offenses, i.e. murder, felony DUI, possession and distribution of drugs. The vast majority of criminal cases result in a guilty plea but I have experience throughout my 29 1/2 years in trying cases before a jury.

Civil: I would incorporate by reference my response to Question 19 (a), (b), and (e) concerning three significant cases in Common Pleas

that I have handled. I have extensive experience dealing with a wide variety of cases, both jury and non-jury. The two most recent cases that I have tried in Court were (1) a breach of contract/fraud case dealing with a sale of an antique automobile. I represented the Defendant. The case was tried before a jury with a verdict in favor of the Defendant. (2) A deed-set-aside case. I represented the Plaintiff. The case was tried non-jury with a verdict in favor of the Plaintiff. My practice has been more Plaintiff-oriented but I do represent Defendants. A sampling of what I currently have pending in my Common Pleas practice is as follows: A quiet title action representing the Plaintiff; Representing the Defendants in a fourteen causes of action land dispute case. I also represent The Palmetto Bank and The City of Laurens Commission of Public Works, which provides additional cases in the civil area.

15. What is your rating in Martindale-Hubbell? BV

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: None;
- (b) state: Average of five times a week.

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?

- (a) civil: 25%;
- (b) criminal: 25%;
- (c) domestic: 40%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 5%;
- (b) non-jury: 95%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole Counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Charles Gray and Corey Gray vs. Georgia Pacific Corp., 97-CP-30-110, 111, 112.

I represented the Plaintiffs. This case involved a horrible vehicle accident with these two brothers. They both sustained severe 2<sup>nd</sup> and 3<sup>rd</sup> degree burns over most of their bodies. Suit was filed and a settlement was reached in 1997. This case is significant for several reasons. One, novel computer technology was used by the Plaintiff in the mediation process. Secondly, it is significant because the Plaintiffs



were and are a living example of a true will to live and remain productive citizens, which they are today. Thirdly, significant discovery took place.

- (b) Glen Meadows, LLC, et. al. vs. The Palmetto Bank, et. al., 03-CP-23-4541.

I represented the Defendant Palmetto Bank. This case involved a suit by the Plaintiff-employer against three Banks. The Plaintiff had an employee who stole \$145,000.00 over several years by making out and endorsing numerous checks written on accounts with the Defendants. These checks were made payable to the Bank and each time a deposit was made to The Palmetto Bank. Extensive discovery took place. The case was significant because the law was very competitive between the UCC code and the requirements and duty of care placed upon a customer in contrast to the basic principals governing a banking institution's duty of care.

- (c) State of South Carolina vs. Allenna Ward, 07-GS-30-359, 362, 364, 365, 369.

This criminal case dealt with a teacher charged with criminal sexual misconduct with five underage students. There was a tremendous amount of publicity nationwide. I was one of the two lawyers representing this Defendant. The case was significant for several reasons. One, the vast majority of teachers charged in this state and other states were only involved with one student and this case had five. Secondly, it was significant simply because of the media attention it had from the day of the arrest to the sentencing.

- (d) State of South Carolina v. Comest S. Allen, 99-GS-30-661.

I represented the Defendant who had been charged with armed robbery. He had been in jail/prison the majority of his life. He was accused of going into a Subway restaurant in Clinton, S.C. at midnight (closing time) and robbing the store. The robbery was on surveillance video. The Defendant was very accustomed to the legal system so he continuously filed motions, briefs, objections, etc. contrary to my advice. This case was significant for several reasons. First, he required me to file a Motion with the Court to allow a "re-enactment" of the crime wherein he would be allowed to wear what the "person" was wearing and would act out exactly as the person on the video in an attempt to offer the comparison of the videos as not being him. To the shock of everyone, the Court granted the Motion. The "re-enactment" was done but never an issue. This is due to the fact the only real evidence that the State had (and it was not the video) was the identification by the store clerk. However, under legal principles, we were successful in getting the photo identification line-up and the resulting testimony/in-court identification suppressed. The trial Judge agreed with our defense that the identification was clearly tainted

hereby justifying a suppression of the clerk's testimony. Consequently, a motion for directed verdict was made and granted.

- (e) Ernest Sullivan vs. John Walk, et. al., 06-CP-30-890.

A lady died and left a significant life insurance policy naming, not her husband-the Plaintiff, but an uncle-the Defendant. This lady died of cancer and made the beneficiary change from the husband to the uncle in the latter stages of her illness. I represented the Defendant uncle. He claimed that she made the change to him because she trusted him to insure that her three children (not all by the husband) would be taken care of. The significant issue in the case was whether or not she had the mental capacity to effectuate the change of beneficiary. Significant also was the fact that we had to recreate the last months of this cancer-stricken lady's life on the issue of competency. The case was resolved with the Plaintiff receiving nothing and the Defendant receiving the entire policy proceeds (he agreed to put a portion of the money in trust for the children). Also, it should be noted that a companion Interpleader action was filed by the Insurance Carrier.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

- (a) Shorb v. Shorb 372 S.C. 623 (Ct. App 2007)

I was the trial lawyer but associated another lawyer for the appeal. I was not shown as counsel but was copied with all correspondence from the Court of Appeals and I assisted counsel with the appeal. The case was novel on the issue of equitable division of Walmart stock options in a divorce. I represented the Wife who was awarded 55% of the Husband's stock options along with a monetary award concerning these options. The Wife prevailed on the amount of stock options awarded her by the trial court.

- (b) S.C. Department of Social Services vs. Defendants (Court of Appeals 2000-unpublished opinion)

I represented the father of a teenage daughter who accused him of sexual abuse. The significance of this case was the Court's defining "sexual abuse" to the facts of the case. We were successful in obtaining a reversal and remand in the case.

- (c) Hellams v. Harnist 284 S.C. 256 (1985)

I represented the Defendants in this deed reformation case. I was successful in getting the Court to reverse the trial court's reformation of the subject deed. The case sets out good law with respect to deeds, mutual mistakes in deeds, and property descriptions. (Note: I had only been out of law school four years when the appeal was decided).

- (d) Bobby Tucker vs. Debra Wasson 90-759

This case was appealed by the mother in a visitation case. I represented the father. The issue being whether the father's previously ordered supervised visitation should be changed. The Lower Court ruled in favor of the father. The Court of Appeals affirmed. The case was significant for several reasons. During the time the case was tried, issues of visitation being supervised or unsupervised were fairly uncommon. Too, the Guardian ad Litem played a role in this case possibly somewhat differently than a Guardian ad Litem today

(e) Flinn v. Crittenden, 287 S.C. 427 (1985)

I represented the Plaintiff in a nursing home liability suit against the Defendant nursing home. The Lower Court granted summary judgment in the Defendant's favor. The appellate court affirmed the ruling finding no liability. Justice Goolsby gave a strong dissent which is significant because it sets out a good review of nursing home liability.

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. None

22. Have you ever held judicial office?

I have been the Associate Probate Judge for Laurens County since March of 1984 (26 1/2 years) and appointed by the elected Probate Judge. Probate Courts in South Carolina have jurisdiction over Estates, Mental Commitments, Conservatorships and Guardianships. During my tenure on the bench, I have presided over numerous cases not only in Laurens County but across the State. I have had the honor and privilege of being appointed by the Supreme Court to preside over many cases in other counties for a variety of reasons. I have had the opportunity to preside over jury trials as well as non-jury cases during my tenure. Even though non-jury cases are the most prevalent in Probate Court, I would like to give some of the following examples of jury trials I have presided over (non-exclusive list). (Note: Probate jury trials are identical to Circuit Court jury trials in all respects. A jury trial in Probate Court is conducted either in conjunction with a term of Common Pleas Court in Circuit Court or a special Probate jury term is authorized by the Supreme Court. In either situation, a Circuit Court jury pool is utilized).

Examples:

- (a) Barnett Estate-Anderson County: Six day jury trial with five lawyers and numerous lay and expert witnesses. Since this was the only case for that week of Circuit Court, I did all the initial jury pool qualification before the jury pool was voir dired for the particular case.
- (b) Owings Estate-Laurens County: Four day jury trial with five lawyers and numerous lay and expert witnesses. The same is true in this case concerning jury pool qualification.
- (c) Lester Estate-Newberry County: Two day jury trial in September 2008. A special term of court was scheduled with a Circuit Court jury pool summoned and used. As in the above cases, I presided over all aspects

of the trial including jury qualification, jury voir dire, pre-trial and post-trial matters.

- (d) Grice Estate-Greenville County: Four day jury trial in October 2009 concerning a Will contest.

The point being to the above summary of jury trial Judicial experiences is that I exercised the same role as that of a Circuit Court Judge and did everything that is required of a Circuit Court Judge presiding over a civil jury trial. It should also be noted that the Probate Court handles a wide variety of civil issues. The rules of evidence are the same in Probate Court as in Circuit Court. The Probate Court follows the S.C. Rules of Civil Procedure.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

- (a) Melvin Weathers v. Robert P. Bolt as Administrator of the Estate of Virginia B. Morris, 293 S.C. 486.

The Primary issue in this case was whether the Plaintiff had a common-law marriage with the decedent thus allowing him to inherit from the Estate. I ruled against the Plaintiff and my Order was appealed to Circuit Court and then to the Court of Appeals. Both appellate Courts affirmed my ruling.

- (b) Department of Health and Human Services vs. Moses L. Miller, Personal Representative of the Estate of Genobia Washington, 2005-UP-154

There were several issues in this case: 1. Jurisdiction of a DHHS claim; 2. The distinction between a Medicaid lien for nursing home services and a Medicaid lien for medical services provided as a result of an accident; 3. The right of the Court to sua sponte reopen the record. Both the Circuit Court and Court of Appeals affirmed my ruling.

- (c) In the Matter of Mildred Williams, 97-ES-30-035

An emergency action was filed by a banking institution seeking a Protective Order and seeking a declaration as to the competency of Ms. Williams with respect to a very substantial investment account held by the bank. Several hearings were held in the case. At one time eight lawyers were involved. Ms. Williams also filed an extraordinary Writ of Prohibition in the S.C. Supreme Court (case number unknown) objecting to my jurisdiction over the case. This Writ action was ultimately dismissed. The merits of the case before my court were ultimately dismissed after the competency issue was resolved.

- (d) In the Matter of Merrilee O. DeVinney, 01-GC-100/104

This case involved a very significant and somewhat novel issue related to the effect, if any, of a trust on a spouse's claim to an elective share in the Estate. My Order was appealed to the Court of Appeals.

- (e) In the Matter of the Estate of Bobby Gene Barnett, 03-ES-04-174

This case is ongoing which involves a large Estate and a substantial controversy among the family members along with a companion case involving two bonding companies which had bonds in place when a prior Personal Representative was in office. There have been 15-20 separate hearings along with a six day jury trial on the issue of the validity of the Last Will and Testament.

24. Have you ever held public office other than judicial office?

Since I am appointed by the elected Probate Judge, I have been required to file an Annual Report with the State Ethics Commission and I have always been timely without penalty.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.

Practicing attorney representing clients such as the City of Laurens Commission of Public Works and The Palmetto Bank.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

(a) Yes. I was found qualified but not nominated as a candidate for the Eighth Circuit Seat No. 2 in the fall of 2008;

(b) Yes. I was found qualified and nominated as a candidate for the Eighth Circuit Seat No. 1 in the fall of 2009 and went to a close floor vote in February 2010.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

(a) 1976-78: Juvenile Probation Office with Laurens County

(b) 1976-78: Adjunct Instructor for Piedmont Tech

28. Are you now an officer or director or involved in the management of any business enterprise? No

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?
- Several years ago, a disgruntled "litigant" (actually it was a non-lawyer who was trying to represent a party in a Probate Court case) sued me in my judicial capacity because I would not allow him to make an appearance in the case. The case was dismissed with prejudice in the Circuit Court. (Note: This person has had a history of filing lawsuits against judges and lawyers all without any success).
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Include the disposition, if any, of such charges or allegations. None
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. Postage/Stationery: \$100.00
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General

Assembly as to your election for the position for which you are being screened? No

44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) Laurens County Bar Association;
  - (b) S.C. Bar Association;
  - (c) S.C. trial Lawyers Association;
  - (d) S.C. Association of Probate Judges;
  - (e) Certified Circuit Court Mediator/Arbitrator (ADR).
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

I am active in my church which is First United Methodist Church in Laurens. I serve as Chairman of the Church Council and I teach an adult Sunday school class. I have been active with the Boy Scouts serving as Troop Committee Chairman. I belong to the Kappa Alpha Order Court of Honor which is an elite organization of men across the State who are Kappa Alpha alumni. Several years ago, I received the South Carolina Pro Bono Service Award. Finally, I was voted "Best Attorney" in 2009 by the subscribers to the Clinton Chronicle.

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I believe I am qualified for the position of Circuit Court Judge for the following reasons:

- (a) I have 29 1/2 years experience practicing in Circuit Court both in Common Pleas-civil and General Sessions-criminal. I have tried cases jury and non-jury. I believe that I have more than sufficient legal experience to qualify me for this position.
- (b) I have 26 1/2 years on the Judicial Bench as the Associate Probate Judge for Laurens County. I have tried cases jury and non-jury. I have presided over cases across this State. I believe that I have more than sufficient judicial experience to qualify me for this position.

- (c) I have never had any grievances or ethical complaints filed against me in the 29 1/2 years I have been a practicing attorney.
- (d) I have never had any grievances or ethical complaints filed against me in the 26 1/2 years I have been a Judge.
- (e) I am a Christian and active in my Church and community to the extent that my part-time judicial position allows.
- (f) I have a stable and loving marriage of 34 years with two wonderful children who are both adopted.
- (g) I believe that I have the right judicial temperament and sense of fairness and compassion that will allow me to be a good Circuit Court Judge.
- (h) That I meet the nine criteria used by the Commission in determining that I am qualified:
  - 1. I meet the Constitutional qualifications;
  - 2. I am ethically fit;
  - 3. I have the necessary academic and professional abilities;
  - 4. I have the required character;
  - 5. I have a positive reputation;
  - 6. I have excellent physical health;
  - 7. I have no mental health problems;
  - 8. I have the necessary legal and judicial experience;
  - 9. I have the necessary judicial temperament.

Finally, I am humbled in having the opportunity to apply for this position. I believe that the above factors that I have listed have influenced me in being the type of Judge I have been and the type of Judge that I will continue to be whether (and hopefully) in the Circuit Court arena or continue in the Probate Court arena.

50. References:

- (a) Rev. William F. Rogers, III  
First United Methodist Church  
Post Office Box 203  
Laurens, S.C. 29360  
864-984-7696
- (b) Von McCarson  
The Palmetto Bank  
Post Office Box 49  
Laurens, S.C. 29360  
864-984-8333
- (c) A. King Dixon, II  
1200 Dixon Road  
Laurens, S.C. 29360  
864-682-3374
- (d) Gregory P. Harris  
Attorney at Law  
1529 Laurel Street



Columbia, S.C. 29201  
803-779-7080  
(e) William J. Craine, Sr.  
103 Left Bank  
Laurens, S.C. 29360  
864-682-9611

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Don Hocker

Date: August 18, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Donald Bruce Hocker  
Business Address: Post Office Box 972  
Laurens, SC 29360  
Business Telephone: 864-984-4574

1. Why do you want to serve as a Circuit Court judge?

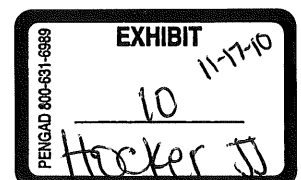
I am humbled and honored to have the opportunity to apply for this Circuit Court Judge's position. I want to serve as Circuit Court Judge for several reasons. I want to be able to apply my skills I have learned and developed as a practitioner over the past 29 ½ years and as a part-time Judge for the past 26 ½ years all in a full-time judicial capacity. Secondly, I want to serve the public and the legal community. Finally, I truly enjoy being a Judge and I take being a Judge very seriously.

2. Do you plan to serve your full term if elected? Yes  
3. Do you have any plans to return to private practice one day? No  
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes  
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I would follow Canon 3(B) (7) to govern how I would handle these situations. They are to be avoided to every extent possible. However, *ex parte* communications would be tolerated in emergency situations as long as notice and disclosure are afforded as soon thereafter as possible. Also, purely ministerial/administrative matters or scheduling issues can cause *ex parte* communications to be warranted. The Court must make sure that substantial matters clearly within the merits of the case are not involved. Also, the Judge needs to further make sure that the other side is not prejudiced in any way by the *ex parte* communication.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I have always taken the position, during my tenure on the bench, that if there is any hint of a need for recusal, it is better to "err on the side of caution" and recuse oneself from a case. The Judge must always appear to be fair and impartial. A Judge must always allow the litigants to feel they have been treated fairly and given every opportunity



to present their case knowing that they were given every consideration.

I have never had a law partner or associate so that would never be an issue. Lawyer-legislators, on the other hand, practice across the state in every Court every day. If a Judge believes he or she cannot be fair or impartial because counsel is a legislator, then recusal is warranted. If the opposite is true, then recusal is not warranted. The issue should be controlled by Canon 2 of the code for Judicial Conduct as it sets forth the test for the existence of an "appearance of impropriety". It must be determined whether the conduct would create in reasonable minds a perception that the Judge's ability to carry out his responsibilities with integrity, impartiality, and confidence is impaired.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

More likely than not, I would grant the Motion for Recusal but would require the moving party to make clear record of why recusal was necessary. I, as the Judge, would also make a clear record why I did not believe there was any prejudice but out of fairness, I would grant the Motion. This in actuality happens very rarely.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would handle it in accordance with number seven (7) above.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I believe Canon 4(D)(5) must be followed. Ordinary social hospitality is certainly acceptable in most situations and gifts from a relative or friend for a special occasion likewise would be acceptable in most situations. Gifts not intended or perceived to influence the Judge in the performance of his duties are also acceptable. These gifts and acts of hospitality must not be intended or perceived to influence the Judge in the performance of his duties. If they are given for that purpose, they must be avoided.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

Cannon 3(D) (1) and (2) provides for "misconduct" to be substantial that affects a Judge's fitness or a lawyer's fitness to practice law. Therefore, if the act fits the definition of "misconduct" then a report must be made. However, a very careful and thorough review must be made before a formal report is filed.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No
13. If elected, how would you handle the drafting of orders?

Because of the volume of work, I would direct counsel to prepare most Orders with the opportunity by opposing counsel to review the same. However, in some situations, I prefer to prepare my own Orders.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would install paper and computer "tickler" systems.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

Judges, first and foremost, must follow and enforce the law. They should, however, be able to engage in activities that promote the law or advance the teachings of the law. Judges should not promote public policies that would often times create a conflict between the teachings of the law and public sentiment. As stated in number 16 below and Canon 4, Judges should be able to teach, lecture, and speak on matters advancing the improvement of the law, the legal system and the administration of justice. Going beyond that would not be proper for a Judge to engage in.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would continue to speak and lecture at seminars and I would enjoy teaching law related courses.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

No. It has not ever been a problem over my 26 ½ years on the bench.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders. Canon 5 only allows me to state that I will make a faithful and impartial performance of the duties of my office. I could not make statements that the public would view as a commitment to a particular decision or course of conduct in a particular case or fact situation. I can and will give my general judicial views and overall philosophies.

- a. Repeat offenders:

I am a firm believer that in many cases (not all) everyone is entitled to some leniency if it is a first-time offense or first-time offender situation. However, if a Defendant violates that privilege and commits a subsequent crime, then he or she must be dealt with more severely. The Court must follow those sentencing statutes where enhanced penalties are applicable for repeat offenders.

- b. Juveniles (that have been waived to the circuit court):

Once a Family Court determines that the statutory requirements are met to transfer a juvenile case to Circuit Court, I do not believe that

sentencing should be viewed any differently just because the Defendant is a juvenile. Also we have certain mandatory sentences where the Court is without discretion. I am mindful, however, that some juveniles are in fact children and others are closer in reality to adults. Certainly in those situations where the Court has discretion, the age of the Defendant would certainly be taken into consideration along with all other applicable facts.

c. White collar criminals:

I believe applicable to any sentencing situation the Court can not be influenced by whether the Defendant is white or black, poor or rich, young or old. The Court has to consider: Type of offense; Defendant's criminal history; Sentencing statute; Remorse on behalf of the Defendant; Whether the crime is victimless or not.

d. Defendants with a socially and/or economically disadvantaged background:

I believe that this can be one factor among many factors that the Court would look at in determining an appropriate sentence. This in and of itself would not be a basis to apply a more strict sentence or a more lenient situation in a case. I have been a defense lawyer my entire career and this fact alone generally does not mitigate an otherwise applicable sentence by the Court but again must be taken into account along with all factors.

e. Elderly defendants or those with some infirmity:

This is a "special" area that I know gives Judges a lot of concerns when faced with imposing an appropriate sentence. The Court has to be cognizant of the fact of whether or not the advanced age of the Defendant or the Defendant's physical or mental infirmity would in fact actually enhance the punishment while in prison in contrast to a Defendant who is not elderly or one who does not have some infirmity. This would create additional concerns for the Court in determining an appropriate sentence along with consideration of all applicable factors.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

If I believed I could not be fair and impartial then I would not hear the particular case. I believe it would be a rare occurrence where this de minimis financial interest issue would be involved. If I elected to hear the case it would be conditioned upon counsel and litigants providing their consent on the record.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No

22. Have you met the mandatory minimum hours requirement for continuing

- legal education courses? Yes
23. What do you feel is the appropriate demeanor for a judge?  
At all times, the Judge must show respect, courtesy, fairness, and impartiality to litigants, lawyers, staff, jurors, and others in the Courtroom.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?  
It should apply seven days a week, twenty-four hours a day.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?  
No. Anger is never appropriate with attorneys or litigants.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?  
I have spent \$100.00 on postage and stationary for letters of introduction and qualification. Yes, I have made the necessary reporting.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No
28. Have you sought or received the pledge of any legislator prior to this date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
I have not asked for support or pledges and I have not asked anyone to gain support or pledges on my behalf from anyone in the General Assembly.
31. Have you contacted any members of the Judicial Merit Selection Commission? No
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Donald Bruce Hocker

Sworn to before me this 24<sup>th</sup> day of August, 2010. \_\_\_\_\_

Notary Public for S.C.

My Commission Expires: 9-10-2019 \_\_\_\_\_



*Angela McCall-Tanner*  
1 Hathaway Lane  
Bluffton, South Carolina 29910  
(843) 757-4213 home  
(843) 384-3223 cell \*  
Angmccall@aol.com

October 30, 2010

Ms. Jane O. Shuler, Chief Counsel  
S.C. Judicial Merit Selection Commission  
Post Office Box 142  
Columbia, South Carolina 29202

Re: Circuit Court Vacancy, At Large, Seat 9  
Amendments to PDQ

Dear Ms. Shuler,

I am requesting that my answers to PDQ questions #34 and #50 be amended.

With regards to question #34:

Since filing my PDQ it has been brought to my attention that I was named as a defendant in two lawsuits filed by a Pro Se Plaintiff. Both suits were filed by an individual who was prosecuted by members of the Solicitor's Office where I am employed. I was never personally served in either suit. I recall receiving a letter from this defendant offering to seek less money from me in his lawsuit if I would dismiss his criminal charges, but I had no idea there was a real suit pending. I contacted the County's IRF attorney when I received this letter and forwarded a copy to him in case anything developed; however, I never heard anything else about it.

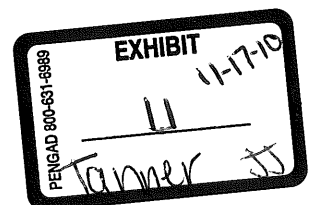
According to the records I have since received, the cases are as follows:

#1 07-CV-03976 Thomas L. Davis (prisoner) vs. Attorney Eric J. Erickson, Sheriff's Officer Christine L. Wilson, Attorney Larry Weidner, Warden Phillip Foote, and Assistant Solicitor Angela McCall-Tanner.

\*Summary Judgment was granted in favor of the defendants in this matter March 16, 2009.

#2 08-CV-02248-GRA Thomas L. Davis (prisoner) vs. Assistant Solicitor Angela McCall-Tanner, Solicitor Stone McDuffey, Kimberly Smith, Attorney Larry Weidner, and Judge Perry Buckner.

\*This case was dismissed on August 22, 2008.





With regards to question #50:

I would like to replace the letter of reference from Ms. Trasi Campbell with a letter of reference from Ms. Krissia Walker.

Therefore, in subsection (d) the contact information should be:

Ms. Krissia Walker

2 Rivers Bridge Ct.

Bluffton, SC 29910

(843) 540-0515

Respectfully Submitted,

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Angela McCall-Tanner

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At Large, Seat 9

1. NAME: Angela McCall-Tanner  
BUSINESS ADDRESS: 39 Sheridan Park  
P.O. Box 1880  
Bluffton, S.C. 29910  
E-MAIL ADDRESS: angmccall@aol.com  
TELEPHONE NUMBER: (office): 843-255-5888
2. Date of Birth: 1973  
Place of Birth: Greer, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on May 18, 2002, to P.J. Tanner. Never divorced.  
No children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
(a) College of Charleston, August 1991-May 1995 B.A., Political Science  
(b) USC School of Law August 1995-May 1998 J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina: 1998 (only took the Bar Exam once).
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
I usually worked during the school years.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Annual Solicitor's Conference	Sept. 2005;
(b) Prosecution of Exploitation of Vulnerable Adults	April 2006;
(c) Annual Solicitor's Conference	Sept. 2006;
(d) Advocacy in the US District Court	Mar. 2007;
(e) Lethal Weapon DUI Homicide	April 2007;

- (f) Capital Litigation Seminar May 2007;
  - (g) Annual Solicitor's Conference Sept. 2007;
  - (h) Capital Litigation Seminar April 2008;
  - (i) Annual Solicitor's Conference Sept. 2008;
  - (j) Forensic Science April 2009;
  - (k) Annual Solicitor's Conference Sept. 2009;
  - (l) Prosecution of Homicide by Child Abuse Feb. 2010;
  - (m) Death Penalty legal update June 2010
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have lectured at the S.C. Bar Program "Law School for Non-Lawyers" on several occasions.
  - (b) I have made presentations on the topics of case analysis and case preparation to lawyers attending the Commission on Prosecution program "Bootcamp for Prosecutors."
  - (c) I have made presentations on the topic of criminal domestic violence at the CLE program sponsored by the 14<sup>th</sup> Judicial Circuit Solicitor's Office for assistant solicitors, magistrates, and law enforcement officers.
  - (d) I have lectured at the Technical College of the LowCountry for their criminal justice program.
  - (e) I have lectured at the Beaufort County Sheriff's Office Reserve Deputy training program on Constitutional Law, Search and Seizure Law, and Evidence.
  - (f) I have made presentations on the topic of the Criminal Justice System to members of the Senior Leadership of Beaufort.
12. List all published books and articles you have written and give citations and the dates of publication for each. None
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the State Courts of South Carolina in 1998;
  - (b) Admitted to practice before the Federal District Court of South Carolina and Fourth Circuit Court of Appeals in 2002;
  - (c) Appointed as a Special Assistant United States Attorney in 2010.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- I graduated from law school in May 1998. Admitted to the S.C. Bar in November 1998.
- Worked for Perrin, Perrin, Mann, & Patterson in Spartanburg, S.C. until

August 1999. This was a general practice law firm that was involved in civil plaintiff and defense, real estate, and probate work. I worked on a contract basis and was paid by the hour to do legal research and basic file preparation.

I went to work for the 14<sup>th</sup> Judicial Circuit Solicitor's Office in August 1999. I handled juvenile, magistrate, misdemeanor, felony, and death penalty cases.

In November 2001, I went to part-time status with the Solicitor's Office and focused on the prosecution of criminal sexual conduct against minor cases for them.

From November 2001 until January 2003, I also worked part-time with the Law Office of Duffie Stone. This was a general civil practice firm but primarily focused on Insurance Reserve cases.

I left the Law Office in 2003 and returned to work full-time with the Solicitor's Office.

In January 2006, I was promoted to Deputy Solicitor in the 14<sup>th</sup> Circuit and this is my current position. Since January 2009, I have headed a trial team that focuses on the prosecution of career criminals and violent offenders.

In March 2010, I was sworn in as a Special Assistant United States Attorney and have been working with federal prosecutors and law enforcement agencies on a multiple defendant murder case and various other drug and gun offenders.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have handled criminal matters of all varieties. I have been involved in several death penalty cases. While the guilt phase of a death penalty trial involves heightened concentration on all the usual areas of criminal procedure, the penalty phase is a unique procedure. It is a rare opportunity to present victim impact and defendant history

to a jury for consideration.

In prosecuting other violent felonies the issues have been as diverse as the facts surrounding them. Constitutional matters involving searches, seizures, arrests, detention, interrogation, discovery, and representation are daily concerns.

In handling misdemeanors and lower court charges, when incarceration is not the most desired option, there is an effort to explore solutions involving restitution and behavior management. Alternative programs such as drug court, batterer's counseling, and public service become important components of the process.

This is similar to issues faced when prosecuting juvenile court matters in Family Court. By its nature, Juvenile Court does not seek to punish but attempts to rehabilitate youths. I often found myself dealing with agencies such as the Department of Social Services and School Counselors more than the Department of Juvenile Justice.

While my experience in handling civil cases is much more limited than my criminal experience, I have had a lot of exposure to civil matters. Criminal cases often involve issues of restitution, forfeiture, and liability. Balancing these competing interests is a constant part of plea negotiation.

My career in criminal law has also exposed me to Domestic and Probate matters. There is no doubt that many criminal matters are born out of domestic situations. Likewise, mental illness and substance abuse are frequent elements.

Therefore, limiting the description of my experience as a prosecutor to only "criminal" would be a huge understatement.

15. What is your rating in Martindale-Hubbell?

I am not listed in Martindale-Hubbell. I guess this is because I've been a prosecutor for the majority of my career.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: 2;
- (b) state: approximately 300 (5 appearances a month x 5 years).

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?

- (a) civil: (dealt with civil issues 10% of the time - but not cases)
- (b) criminal: 100%
- (c) domestic: (dealt with domestic issues 30% of the time - but not cases)
- (d) other: (dealt with probate issues 5% of the time - 2 cases)

handled there)

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

(a) jury: 50%;

(b) non-jury: 50%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) State of S.C. vs. Samantha Morgan Major

This was a death penalty trial for a woman charged with kidnapping, robbing, torturing, and murdering a young, handicapped man. The significance of this case was the exposure to what can only be described as a void of humanity. This young woman gave an audio-taped confession that detailed what she did to her victim. There were many points on the tape where she laughed through her description of events. Someone like her, and something like her crime, puts many other things into perspective.

(b) State of S.C. vs. Kenneth Williams

This was the trial of a man charged with burglarizing, robbing, and murdering an elderly man in his own home. The significance of this case was the unique "method" of murder. During the robbery, Williams severely beat the victim. The excitement of the attack caused the victim to suffer a sudden and lethal heart attack. While the cause of death was heart attack - the manner of death was homicide. It was a novel and interesting case to argue. But for the defendant's actions, the victim might still be alive today. The jury agreed and convicted Williams of murder. I suspect that as our population ages we will unfortunately see more of these scenarios.

(c) State of S.C. vs. Alphonso Howard

This was the trial of a man who, along with a co-defendant that testified against him, was charged with the kidnapping and robbery of a couple visiting our town on vacation. Howard was also charged with the rape of the woman. The significance of this case was the complexity of the evidence and its presentation. There were extensive pre-trial arguments over DNA, lab contamination, discovery, handwriting samples, and many other topics. While the evidence against the defendant was primarily circumstantial, it was overwhelming once put together.

(d) State of S.C. vs. Preston Costa

This was the trial of a young man who was charged with the

Armed Robbery of a little family owned grocery store. The significance of this case was the lessons I learned while trying it three times. The victim was by far one of the most credible witnesses I have ever encountered and the fact that she and her 80 year old grandmother had a gun pointed in their faces motivated me to continue. The first trial was a hung jury. I had an opportunity to speak with some of the jurors after the trial and they gave me some "pointers". I discovered this was a mistake when the second trial was a hung jury. I focused on the details the first jury thought were important instead of just trying the case. By the time the third jury convicted Costa I had reevaluated many things about how I prepared for and presented cases. Almost as important, I came to believe what I've heard seasoned lawyers say: "if you ever get a chance to listen at the jury deliberation door - don't!" It's true - they are not talking about what you think or wish they were...

(e) State of S.C. vs. Louis Staples

This was the case of a mentally challenged man who was charged with a criminal sexual assault on a child. The significance of this case was that it shows the limitations of the Criminal Justice System and forced me to search for other alternatives. Staples had been charged with raping a child before. The prosecutor who handled that case dismissed the charges once a mental evaluation indicated he was mentally retarded and therefore not competent to stand trial. Years passed, Staples molested another child, and the case came to me. The mental evaluation obviously presented the same challenge as before. He could not be prosecuted in General Sessions. However, the option of just turning him loose back into the community didn't seem adequate. I made it my job to educate myself enough to take Staples through the Probate Court system.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. None
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. None
22. Have you ever held judicial office? No
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? n/a
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job

responsibilities, and supervisor. n/a

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? .  
No - other than waiting tables to get through school.
28. Are you now an officer or director or involved in the management of any business enterprise? No
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None



40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? If so, give details. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) S.C. Bar;
  - (b) S.C. Women Lawyers Association;
  - (c) Beaufort County Bar;
  - (d) National District Attorney's Association.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Beaufort County Fire Scene Investigations Oversight Committee;
  - (b) Technical College of the LowCountry Criminal Justice Advisory Board;
  - (c) Humane Society of the U.S.
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I come from a humble background. I don't take anything for granted

and I don't forget where I come from. I don't believe that anyone owes me anything in this world. I have always been a hard worker and I have earned everything that I have. I believe that you never take something that doesn't belong to you. I also believe that people can make honest mistakes, be remorseful, and therefore deserve a second chance.

I believe that mutual respect and honest communication are must haves for any success. I believe that listening is actually a skill. Nothing offends me more than someone thinking that I don't care. I want to be respected for my work, not a title I may hold or by an association I may have made.

That is the kind of Judge I would be.

50. References:

- (a) Mr. Robert Stewart  
P.O. Box 1971  
Lexington, S.C. 29071  
(803) 808-9580
- (b) Ms. Paula Harper Bethea  
12 Hanover Way  
Bluffton, S.C. 29910  
(843) 837-8600
- (c) Mr. Wes Jones  
P.O. Box 1938  
Bluffton, S.C. 29910  
(843) 706-6111
- (d) Ms. Trasi Campbell  
32 Plantation Homes Dr.  
Daufuskie Island, S.C. 29915  
(843) 255-5808
- (e) Mr. Martin Mulligan (banker)  
Wachovia  
11 Arley Way, Suite 101  
Bluffton, S.C. 29910  
(843) 706-4060

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: Angela McCall-Tanner

Date: September 10, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Angela McCall-Tanner  
Business Address: 39 Sheridan Park  
P.O. Box 1880  
Bluffton, SC 29910  
Business Telephone: (843) 255-5888

1. Why do you want to serve as a Circuit Court judge?

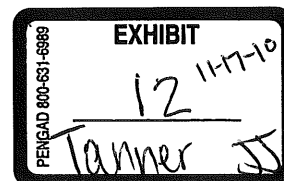
The Circuit Court - the Trial Court - of South Carolina is where real life unfolds. This is where we see people at their worst and at their best. What happens at the "end of the day" in this Court makes a difference in the lives of its participants. I cannot imagine a greater honor than being allowed to preside over such pivotal and important matters.

2. Do you plan to serve your full term if elected? Yes.  
3. Do you have any plans to return to private practice one day? No.  
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.  
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Ex Parte communications should be discouraged and avoided. There may be limited circumstances where discussions about scheduling or administrative matters are permissible. This would not include any discussion of substantive matters or give any party an advantage over the other. There may also be a rare case where an unforeseen emergency gives rise to an *ex parte* communication. In any of these situations, all parties must be notified of the content of the conversation as soon as possible.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I believe that any time a situation arises where my impartiality could be reasonably questioned I should disqualify myself from hearing the matter. However, under this scenario, if all parties involved waive the disqualification



after full disclosure, and I do not have any bias as a result of these relationships, I believe it would be appropriate to proceed.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

What I believe in this scenario is not the appropriate test. If another reasonable mind believes that the appearance of bias compromises my impartiality then I should defer to that party. Therefore, if the motion is based on reasonable grounds, I would grant it.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

Very much like the answers give in numbers 6 and 7. First I would disclose the possible impropriety to all parties. If there is a financial or social interest of a close relative that would be affected by the outcome of the proceedings I would disqualify myself.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would use the Ethical Cannons, which outline in some detail what is acceptable. If a situation ever arose that presented any doubt, it would be my policy to politely decline the gift or social hospitality.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

Depending on the nature of the misconduct, I might first speak directly to the lawyer or Judge. If there was actual knowledge of misconduct I would turn that over to the appropriate authority.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders? If they are simple or form orders, I would have one of the parties draft it and get the other party's approval before signing. For more complex rulings I would draft those myself, with the aid of my staff.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I am very detail oriented. I write everything down, make to-do lists, and put things into calendars - both low-tech handwritten daytimers and electronic calendars that sync with my data phone. I would have scheduled briefings with my staff to discuss impending deadlines and to confirm completed tasks. I believe that professionalism is directly connected to

communication.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

"Judicial activism" seems to contradict my understanding of the duties and responsibilities of the Judiciary. Judges are to make rulings on the facts presented based on the law as it exists. To do otherwise would encroach upon another branch of government's duties and responsibilities.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

One of the things that I have discovered over the years is how little people actually understand our judicial system. I have always enjoyed speaking to various groups, inside and out of the legal profession, to share what it is I do. I would like to continue educating the public this way, where appropriate.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

No. I have already lived with a career under public scrutiny and I'm well prepared for that part of this job. I understand that time with my family and close friends is precious, and I have found that balance. I have had to be selective over the years to develop close relationships with those who respect my responsibilities and commitments.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

- a. Repeat offenders:

These individuals have obviously "had their chance". These are the people that heavy sentences are meant for.

- b. Juveniles (that have been waived to the circuit court):

If a juvenile is waived to General Sessions, they have already failed to avail themselves of the opportunities and alternatives for juveniles. While their immaturity should be taken into account as mitigation, the facts surrounding their crime must also be given weight.

- c. White collar criminals:

These are people who owe a debt. Sentencing should be structured so that the victim is given as much back as possible. The criminal should not be left with any of the "proceeds" of his crime.

- d. Defendants with a socially and/or economically disadvantaged background:

All precautions should be taken to insure that these defendants receive all due process protections. However, sentence should be based on the crime committed and the defendant's criminal background - not social status. Similarly, someone with an advantageous social or economic background should be sentenced in accordance with their crime and prior record - not social status.

e. Elderly defendants or those with some infirmity:

Again, the elderly and infirm may have special concerns with regards to placement if a sentence involves incarceration but that can't override the basis for the sentence. Mitigation involves explanations for behavior - not physical limitations. Criminal intent can come in all packages. The victim of murder is just as dead regardless of who killed him.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

By definition "de minimis" is an insignificant interest that would not raise a reasonable question as to impropriety. Therefore, I would hear this matter, absent any other suggestion of bias or impropriety.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

A Judge's demeanor should be calm and patient. Being rude and impatient would not allow the parties a fair opportunity to make their arguments; which would ultimately limit your own ability to give thoughtful consideration to matters. A Judge's demeanor should also remain consistent.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

24/7. Judges are, and should be, held to a higher standard by the general public. Scrutiny is constant - not just while one is sitting on the bench. There would be no way to maintain respect for the position, or the system as a whole, if Judge's exhibited lower standards out in public than they espoused in the courtroom.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

Emotion should never rule a Judge's behavior or decision making.  
Anger in particular could be construed as bias.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?  
None to date.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
28. Have you sought or received the pledge of any legislator prior to this date?  
No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE  
AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Angela McCall-Tanner

Sworn to before me this 10<sup>th</sup> day of September, 2010.

Notary Public for S.C.

My Commission Expires: 6-27-2015

*Senn, McDonald & Leinbach, LLC*  
*Attorneys at Law*

*3 Wesley Drive  
Post Office Box 12279  
Charleston, South Carolina 29422-2279  
Telephone: (843) 556-4045  
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*Sandra J. Senn  
Robin L. Jackson*

*Stephanie P. McDonald  
Teri J. Leinbach*

November 5, 2010

*Electronic Delivery  
Joseph James Gentry  
Counsel to the Commission  
Judicial Merit Selection Commission  
Post Office Box 142  
Columbia, SC 29202*

Dear J.J.:

Pursuant to our discussion during the screening interview, I have attached an amended response to Question 28 of the Personal Data Questionnaire. As we discussed, my term as President of the Junior League of Charleston ends on May 30, 2011, not May 30, 2010.

Thank you so much for catching this date error. If any additional information is required, please let me know. I have not sent a hard copy, but I will drop one in the mail on Monday if you need it for your file.

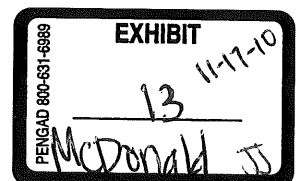
I thank you again for your assistance with this matter.

Sincerely,

*s/Stephanie Pendarvis McDonald*

Stephanie Pendarvis McDonald

Enclosure





Stephanie Pendarvis McDonald

Page 14 of Personal Data Questionnaire:

Amended Answer to correct date from May 30, 2010 to May 30, 2011

28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.

Yes. I am currently the President of the Junior League of Charleston, an organization of over 1000 members.

This is a non-profit 501(c)(3) organization of women committed to promoting voluntarism, improving the community, and developing the potential of women. My term expires on **May 30, 2011**.

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9.

1. NAME: Stephanie Pendarvis McDonald  
BUSINESS ADDRESS: Senn, McDonald & Leinbach, LLC  
3 Wesley Drive  
Charleston, S.C. 29407  
E-MAIL ADDRESS: stephanie@smllawfirm.com  
TELEPHONE NUMBER: (office): (843) 556-4045
2. Date of Birth: 1969  
Place of Birth: Columbia, S.C.
3. Are you a citizen of S.C.? Yes.  
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Divorced on September 21, 2007, Family Court for the Ninth Judicial Circuit, State of South Carolina Ms. McDonald was the moving party. One Year's Continuous Separation. One child.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) University of South Carolina – Honors College, 1987-91  
B.A. in Philosophy and English, Magna cum Laude, with Honors from S.C. College, May 1991
  - (b) USC School of Law, 1991-94, J.D., May 1994
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina – Admitted to practice in 1994  
I have taken only the S.C. Bar exam (once).
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
College:
  - (a) Carolina Cares, USC's Philanthropic Organization (1988-91)  
President (1990-91);
  - (b) Alpha Delta Pi Sorority (1987-present)  
President (1990-91);
  - (c) Student Alumni Association (1989-91)  
Secretary/Treasurer (1990-91);

- (d) Interclub Council (1989-91)  
Secretary/Treasurer (1989-90);
- (e) United States Senate Summer Intern/Page Program  
(The Honorable J. Strom Thurmond) (July 1990);
- (f) USC Community Service Programs Advisory Board (1990-91);
- (g) Assistant Student Advocate (Student Government) (1989-90);
- (h) Campus Judicial Board (1990-91);
- (i) Hurricane Hugo Relief (Salvation Army) (1989);
- (j) Association of Honors Students (1987-91);
- (k) Mortar Board (1989-91);
- (l) Omicron Delta Kappa (1990-91);
- (m) Order of Omega (1989-91).

Law School:

- (a) Senate Judiciary Committee Law Clerk, (1992-94);
- (b) Moot Court: (1992-94)  
Finalist (Argued before the S.C. Supreme Court, (1993)  
Order of the Barristers, (1993-94)  
Captain, Craven Moot Court Team, (1994);
- (c) Law School *Pro Bono* Board, (1992-94)  
Vice-President, (1993-94);
- (d) Volunteer, Richland County Guardian ad Litem Project, (1993-94).

10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) S.C. Association for Justice – various CLE courses	8/5/2010;
(b) Crime and Punishment Symposium – Charleston School of Law	2/19/2010;
(c) S.C. Bar Convention – Criminal Practice and Procedure	1/22/2010;
(d) SC Conference and CLE on Lawyer and Judicial Conduct	10/22/2009;
(e) SC IRF Law Enforcement Defense Seminar	10/2/2009;
(f) Chief Justice Toal's Annual Ethics/Baseball Seminar	8/13/2009;
(g) SCAJ Annual Convention CLEs	8/6/2009;
(h) "Domestic Violence and the Criminal Justice System" SC Attorney General's Office Special Prosecutor Training	07/09/2009;
(i) "It's All a Game – Top Trial Lawyers Tackle Evidence"	02/13/2009;
(j) S.C. Bar Convention 24th Annual Criminal Law Update Seminar	01/23/2009;
(k) SCIRF Law Enforcement Defense Seminar	10/3/2008;
(l) Federal Bar Association Ethics Seminar	09/11/2008;
(m) Training - Commission on Judicial Conduct	09/2008;
(n) S.C. Trial Lawyers Annual Convention CLEs	08/3/2008;
(o) Chief Justice Toal's Ethics/Baseball Seminar	07/08/2008;

- (p) SCIRF Law Enforcement Defense Seminar 10/05/2007;
- (q) Chief Justice Toal's Ethics/Baseball Seminar 07/12/2007;
- (r) SCIRF Law Enforcement Defense Seminar 11/17/2006;
- (s) "Steroids and the Ethics of Baseball" 08/12/2006;
- (t) S.C. Trial Lawyers Annual Convention CLEs 08/3/2006
- (u) SCIRF Law Enforcement Defense Seminar 9/30/2005;
- (v) U.S. District Court Electronic Filing System CLE 05/03/2005;
- (w) "Police Indiscretion: Litigation and Liability" 02/15/2005.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

- (a) In 2006, I spoke at the Insurance Reserve Fund's Law Enforcement Defense Seminar (CLE) on recent developments in constitutional law and the changing composition of the Fourth Circuit and the United States Supreme Court.
- (b) At the 2004 S.C. Conference of Countywide Elected Officials (SCACEE Conference), I spoke about the operation of South Carolina's Freedom of Information Act and provided an update on recent South Carolina cases impacting countywide elected officials.
- (c) In June of 2003, I taught a one-hour session at the S.C. Defense Trial Lawyers' Trial Academy. I believe it was on cross-examination, but I honestly cannot remember.
- (d) I presented the "Ethics" portion for the 2001 Charleston Lawyers Club Law Week CLE. The topic was "Ten Ways to Avoid the Office of Disciplinary Counsel and Tips for Handling that Dreaded Letter."
- (f) At the 2000 Conference for Attorneys to Assist Disciplinary Counsel, I provided an investigation checklist for Attorneys to Assist and spoke on how to conduct a thorough investigation.
- (g) In 1998, I spoke at the American Bar Association's Affiliate Outreach Seminar in Las Vegas. The presentation was about the S.C. Bar Young Lawyer's Division's "Lawyers as Mentors" project and provided instruction for other YLDs interested in starting similar programs in their states.
- (h) In 1997, I spoke at the American Bar Association's Affiliate Outreach Seminar in Tampa. The presentation was about the S.C. Bar Young Lawyer's Division's "Citizenship in Schools" project and provided instruction for other YLDs interested in starting similar programs in their states.
- (i) On December 16, 2010, I will be on the faculty at a CLE seminar entitled "The Mechanics of Civil Procedure." I will be preparing the materials for and presenting both the ethics section of the course and the section addressing the structure and overview of our court system.

12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) Co-author, Recent Developments in Government Operations and Liability Law: Annual Update on Public Official Immunities, The Urban Lawyer, 1997
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the State Courts of South Carolina in 1994;
- (b) Admitted to practice before the United States District Court for the District of S.C. in 1994; and
- (c) Admitted to practice before the United States Court of Appeals for the Fourth Circuit in 1995.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) Stuckey & Senn: August 1994 through June 1997:
- After taking the Bar exam, I worked as an associate at Stuckey & Kobrovsky in Charleston. This firm later became Stuckey & Senn. Although this was a general practice, and I worked on some probate matters and business litigation, my primary areas of work involved constitutional and governmental issues. The first three cases that I tried on my own involved constitutional claims in United States District Court.
- I became quite ill while pregnant with my only child and was forced to take a two-month leave of absence for home intravenous treatments. Upon my return to work in August of 1997, I decided to go out on my own and focus on the handling of appellate matters for several law firms. I maintained this solo practice from August of 1997 through approximately 2003. During this time period, I handled appeals for:
- (1) Stuckey Law Firm;
- (2) Sandra J. Senn, P.A.;
- (3) Clawson & Staubes;
- (4) Rhoad Law Firm (Bamberg);
- (5) Padgett Law Firm (Bennettsville);
- (6) Jennings and Harris (Bennettsville);
- (7) Jay Ervin (Darlington).
- I also did other work for:
- (1) Joye Law Firm (Mark Joye and Ken Harrell);
- (2) David Whittington;
- (3) Robert Gailliard;
- (4) John Price Law Firm;
- (5) E. Bart Daniel;

- (6) J. Brady Hair;
- (7) Larry Kobrovsky;
- (8) Stanley Feldman.

The bulk of my work during this time period, however, was with Sandy Senn, with whom I have worked since graduating from law school. We continued to try cases together until forming the firm of Senn, McDonald & Leinbach, LLC, where I am currently the managing partner.

My current practice focuses on a variety of appellate matters (for plaintiffs and defendants) and the defense of public officials, law enforcement agencies, state agencies, and local governments in state and federal courts.

I am a prosecutor for the S.C. Attorney General's Criminal Domestic Violence Task Force. Most of this work occurs in Orangeburg County.

I handle some trial level cases for plaintiffs, primarily in the field of employment discrimination and harassment, but I estimate that about 60% of my practice is in the area of civil defense.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Although my trial practice has focused on civil defense, the other areas in which I have worked will assist with the duties required of a judge in General Sessions Court as well. I have practiced constitutional law for sixteen (16) years, working on cases involving allegations of illegal search and seizure, violation of the right to counsel, Brady v. Maryland and the requirements of Rule 5, entrapment, and various questions of probable cause.

I have tried over forty (40) cases as either lead counsel or co-counsel, and our work requires that I remain cognizant of decisions in the areas of constitutional and criminal law. In addition, I have personally handled at least forty-five (45) appeals, and I have assisted attorneys at other firms with at least twenty (20) others.

On a pro bono basis, I serve as a prosecutor for the Attorney General's Criminal Domestic Violence Task Force. Most of the cases that I prosecute are in Orangeburg County (my last trial was in July); however, I recently assisted a Dorchester County CDV victim referred to me by the Task Force Coordinator.

I have also worked with the Attorney General's Office on the appeal of a case interpreting portions of South Carolina's Sexually Violent Predator Act and the Federal Prison Litigation Reform Act. See Michau v. Charleston County, 434 F.3d 725 (4<sup>th</sup> Cir. 2006). I argued this case in Richmond in 2005.

I have handled numerous post-conviction relief matters, as assigned to me pursuant to Rule 608 and for other attorneys. The criminal offenses in the matters I have handled have varied from minor offenses to assault and battery with intent to kill, voluntary manslaughter, and murder.

Since our firm serves as counsel for the S.C. Sheriffs' Association, I have also had the honor of working with Sheriffs from all across the State of South Carolina.

I have represented juveniles in Family Court as both appointed defense counsel and as a Guardian ad Litem, and I believe that the administrative skills gained through my community service leadership will assist with docket management and control.

Finally, as my law partner is a member of the Attorney General's Dogfighting Task Force, in 2004, I was able to assist with the "custody trial" following the confiscation of 47 abused dogs from David Ray Tant, one of the nation's worst offenders in the area of dogfighting. We tried the forfeiture/custody case in Charleston County.

I have handled a variety of civil matters over the past five years. Five of these are discussed in detail in response to question 19. Some others include:

- (a) Hamilton v. Charleston County Sheriff's Office, Charleston County (June 2009): This case involved allegations of negligent hiring and negligent supervision of an employee of the Charleston County Detention Center. After a four-day trial, we received a directed verdict on all causes of action. The case is currently on appeal.
- (b) Brown v. County of Berkeley, Berkeley County (2004-2009): In this case, the Berkeley County Clerk of Court sued the former County Supervisor, the members of County Council, and the County for defamation and a variety of other causes of action after the County called for a special audit pursuant to S.C. Code Section 4-9-150. Plaintiff also sought a temporary restraining order to stop the special audit. Plaintiff appealed the denial of the motion for injunctive relief, but the S.C. Supreme Court affirmed.

See Brown v. County of Berkeley, 366 S.C. 354, 622 S.E.2d 533 (2005). Defendants were granted summary judgment on all causes of action in 2009.

- (c) Bynum v. S.C. Dept. of Corrections: Sandy Senn and I tried this medical malpractice case for seven (7) days in Clarendon County in 2006. The jury returned an \$825,000.00 verdict for the plaintiff, reduced by 40% for the plaintiff's comparative negligence.
- (d) Mills v. City of North Charleston (2004): Plaintiff was arrested for attempting to solicit an undercover officer, but following his claim that he was entrapped, the charges were dropped. A subsequent civil rights claim followed. After Judge Houck ruled that the tape of the incident would be admitted for purposes of the Motion for Summary Judgment and any subsequent trial, the plaintiff took a voluntary dismissal.
- (e) Davis v. S.C. Dept. of Corrections, U.S. District Court (2007). This case alleged medical malpractice and constitutional rights violations. It was settled following the submission of the summary judgment memoranda.
- (f) Sunset Cay v. City of Folly Beach, 357 S.C. 414, 593 S.E.2d 462 (2004).  
This was a declaratory judgment action seeking to require Folly Beach to provide sewer service to a remote property. The Honorable A. Victor Rawl dismissed the case, Sunset Cay appealed, and the S.C. Supreme Court affirmed.
- (g) Demetre v. City of Folly Beach (2009): I handled only the appeal of this case, which involved a landowner's claim that a certain street had not been properly dedicated to Folly Beach back in the 1930s. In an unpublished opinion, the S.C. Court of Appeals affirmed the Master's ruling for the City. Last year, the S.C. Supreme Court denied plaintiff's petition for a writ of certiorari.
- (h) Jamison v. Ford Motor Company, 373 S.C. 248, 644 S.E.2d 755 (Ct. App. 2007), cert. dismissed (2009). I was retained at the post-trial motions stage to represent the plaintiffs in this products liability matter. Plaintiffs' daughter was killed in a 15 mile-per-hour accident when the seatbelt that was supposed to protect her lacerated her liver. The jury returned a verdict for the defendant, and the S.C. Court of Appeals affirmed. The S.C. Supreme Court granted certiorari, and heard oral arguments in September of 2009. Although the Court subsequently dismissed the writ, it did so only after issuing a stern warning to Ford Motor Company about proper S.C. discovery practices.



These are just a few of the cases that I have handled over the past few years. I am happy to provide additional information should the Commission need it.

15. What is your rating in Martindale-Hubbell? BV

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?

- (a) federal: 1-2 times per month;
- (b) state: 5-7 times per month, unless we were in trial.

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?

- (a) civil: 70%;
- (b) criminal: 15%;
- (c) domestic: 15%;
- (d) other: 0%.

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 85% (this figure includes matters in which summary judgment or dismissal was granted prior to trial);
- (b) non-jury: 15%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

I generally serve as sole counsel or co-counsel with another of my law partners.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Erickson v. Winner, Charleston County Court of Common Pleas (March 2006). This case arose from the "Domestic Court Reform Movement" that took place in South Carolina in the early 1990s. The plaintiff, a former Dorchester County Guardian ad Litem, sued a number of defendants following the issuance of "The Winner Report," which offered a scathing view of South Carolina's private Guardian ad Litem system. A lengthy article in the Charleston City Paper followed the issuance of the report, and the plaintiff subsequently sued several defendants for defamation and other torts. My law partner and I represented the S.C. Governor's GAL Office and a county office supervisor, receiving a directed verdict on all causes of action after three weeks of trial. Following the fourth week of trial, the jury returned a 6.5 million dollar verdict against several of the remaining defendants. The appeal against our trial clients was dismissed; however, I was subsequently retained to represent two of the defendants again whom

the verdict had been returned. The S.C. Supreme Court heard oral arguments in the case last February, and on March 1, 2010, the Court vacated the 6 million dollar punitive damages verdict. *See Erickson v. Winner*, Memorandum Opinion No. 2010-MO-006 (2010).

- (b) Pelaccio v. Charleston County Sheriff's Office, Berkeley County Court of Common Pleas (April 2005). This wrongful death action arose after a father held his infant hostage and threatened to kill the child and blow up the family's home. He also threatened several members of law enforcement responding to the scene. After an all-night stand-off, the father emerged from the house, holding a knife to the baby's neck. When he refused to remain in a location safe for the Charleston County SWAT team to retrieve the baby from the porch, a police sniper shot him in order to ensure the safety of the child and the officers on the scene. We were honored to represent the Charleston County Sheriff's Office in this matter, and after a four-day trial, the jury returned a defense verdict.

- (c) Cowsert v. Brown, Charleston County Court of Common Pleas (April 2006).

My law partner and I represented the plaintiffs in this matter, which arose after Betty Sue Cowsert fell from the elevated, second-story porch of her Folly Beach home. The contractor who built the Cowsert home had failed to secure a portion of the porch railing in any way – it was not nailed, glued, or secured to the main railing area. When the railing gave way, Mrs. Cowsert fell, suffering serious injuries. Following the four-day trial, the jury returned a significant verdict for the plaintiffs.

- (d) Gregory v. Zumalt, U.S. District Court, Charleston Division (February 2007).

This highly-publicized case arose after an officer with the City of North Charleston shot a man threatening officers with a knife and a screwdriver. The screwdriver had been sharpened to resemble an icepick. After threatening an eight-months pregnant Piggly Wiggly cashier with the knife, the suspect led the officers across a busy parking lot and Rivers Avenue. He refused to drop the weapons and stabbed one of the officers in the chest, puncturing his shirt and vest. After repeated verbal commands to drop the weapons, the suspect charged the officers and was shot. The decedent's family subsequently filed a civil rights suit, alleging that the officers had violated the decedent's constitutional rights and committed excessive force against him. Following a five-day trial, the Honorable P. Michael Duffy granted all defendants judgment as a matter of law on all causes of action. The Fourth Circuit affirmed Judge Duffy's decision without oral argument. *See Gregory v. Zumalt*, 294 Fed.Appx. 792, 2008 WL 4410375 (4<sup>th</sup> Cir. Sept. 26, 2008)(*unpublished*)

- (e) The City of Charleston "Sofa Super Fire" aftermath:

My law partner and I represent the City of Charleston in the cases arising from this tragic 2007 fire which took the lives of nine Charleston firefighters. This work has involved numerous matters, including representation during the SC-OSHA investigation, before the OSHA hearing officer, and throughout the investigations conducted by various federal agencies and law enforcement entities. Currently, our firm represents the City of Charleston in the pending wrongful death and personal injury lawsuits.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
  - (a) Henry v. Horry County, 334 S.C. 461, 514 S.E.2d 122 (1999)(amicus brief);
  - (b) Brown v. Daniel, 230 F.3d 1351, 2000 WL 1455443 (4<sup>th</sup> Cir. Sept. 9, 2000)(unpublished opinion);
  - (c) Mentavlos v. Anderson, 249 F.3d 301 (4<sup>th</sup> Cir. 2001), cert. denied, 534 U.S. 952 (Oct. 9, 2001);
  - (d) Eargle v. Horry County, 344 S.C. 449, 545 S.E.2d 276 (2001);
  - (e) Sunset Cay v. City of Folly Beach, 357 S.C. 414, 593 S.E.2d 462 (2004).
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
  - (a) United States v. Luther Ray Cyrus, 132 Fed.Appx. 441 (4<sup>th</sup> Cir. May 24, 2005) (for attorney Jay Ervin);
  - (b) United States v. Dalton, 477 F.3d 195 (4<sup>th</sup> Cir. 2007) (I assisted attorney Stanley Feldman with his preparation of the brief and with oral argument preparation).

I have also advised attorneys handling criminal appeals in cases in which I have not otherwise been personally involved.

22. Have you ever held judicial office? No
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?

I have not held an elected public office, but I have been appointed by the S.C. Supreme Court to positions affiliated with the Office of Disciplinary Counsel. From 1999-2002, I served as an Attorney to Assist Disciplinary Counsel. In January of 2003, I was appointed to the S.C. Commission on Judicial Conduct. I am currently serving my second term on the Commission.

These positions do not require the filing of reports with the State Ethics Commission. If the Commission should need additional information, please contact Debbie McKeown, Counsel to the Commission, at (803) 734-1965.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. Not applicable.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

Yes. In 2009, I was found to be qualified, but not nominated, for the position of Circuit Judge, At-Large, Seat 8. The S.C. Bar found me to be "well-qualified" in six of seven categories and "qualified" in the seventh category.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No, other than jobs in high school and college.

28. Are you now an officer or director or involved in the management of any business enterprise?

Yes. I am currently the President of the Junior League of Charleston, an organization of over 1000 members.

This is a non-profit 501(c)(3) organization of women committed to promoting voluntarism, improving the community, and developing the potential of women. My term expires on May 30, 2010.

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. Not applicable.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

No. A *pro se* plaintiff attempted to sue me in 1996, after I successfully defended his case against the Charleston County Sheriff and various other governmental defendants. The Honorable Robert S. Carr, United States Magistrate Judge, dismissed the case as frivolous on pre-screening and did not authorize service of process.

36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? If so, give the dates of your employment or activity in such capacity and specify by whom you were directed or employed. No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Not applicable.
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Not applicable.
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.  
I have not yet made such expenditures; however, I will be purchasing postage and materials for a letter to be sent to members of the General Assembly who do not serve on the Judicial Merit Selection Commission. I will supplement this response once those expenditures occur.
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.  
I have made no such contributions since the announcement of my intent to seek election.
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No

44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

No. Friends and colleagues have introduced me to members of the General Assembly at several events, but I have not requested that they contact members of the General Assembly on my behalf. Several friends have offered to contact members of the General Assembly on my behalf, but I am not aware if such contacts have occurred.

45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No

46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?

I am not aware of any such contacts, other than my being introduced to members of the Commission at various events last year and over the summer.

47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.

- (a) S.C. Bar Association

Positions held for the Young Lawyers Division:

Chair, Law School for Non-Lawyers project (1998)

Co-Chair, Lawyers as Mentors project (1997)

Chair, "Citizenship in Schools" project at Fraser Elementary School (1996)

Co-Chair, Lawyers for Literacy project (1995)

Delegate, American Bar Association Annual Meeting (Young Lawyers Division), San Francisco (Summer 1997);

- (b) Charleston County Bar Association;

- (c) Charleston Lawyers Club (1994-2004)  
President, 1998-99;

- (d) Federal Bar Association;

- (e) S.C. Women Lawyers Association;

- (f) Former member of American Bar Association.

48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

- (a) Mentor, S.C. Lawyer Mentoring Program (2009-10);

- (b) Board Member, S.C. Bar Foundation, 1998-2001;

- (c) Board Member, Association of Junior Leagues International, Inc.  
New York, NY (June 2006 – June 2009);

- (d) President, Junior League of Charleston, June 2010 – present  
(This is my fourth term on the Board of Directors since 2000);

- (e) Commissioner, City of Charleston Mayor's Office for Children, Youth & Families (2000-03);
- (f) Chair and Parliamentarian, 120<sup>th</sup> Annual Meeting of the Episcopal Church Women of the Diocese of S.C. (Spring 2004);
- (g) President, St. Philip's Episcopal Church Women (ECW) (1993-94);
- (h) Member, City of Charleston Leadership Team, National League of Cities Municipal Leadership in Education Project (2001-03);
- (i) Board Member, Youth Service Charleston (2001-03);
- (j) Graduate, Leadership Charleston Class of 2001;
- (k) Youth Mentor, Mitchell Elementary School (1998-2001);
- (l) Advisory Board, Charleston County School District Parenting Center, District #20 (2000-01).

Honors:

Junior League of Charleston Community Impact Award (2002)

Law School:

- (a) American Jurisprudence Award for Evidence;
- (b) American Jurisprudence Award for Moot Court;
- (c) First Year Section Legal Writing Award;
- (d) Order of the Barristers.

Undergraduate:

- (a) Algernon Sydney Sullivan Award;
- (b) Phi Beta Kappa;
- (c) Mortar Board Graduate Fellowship;
- (d) Dorothy Shaw Leadership Award (National Sorority Award);
- (e) USC Hall of Leaders;
- (f) Josiah Morse Award for Philosophy.

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

My daughter, Susanne, starred as "Scout" in the Charleston Stage production of "To Kill a Mockingbird" in February of 2009. Watching her in that role - - and watching the character of Atticus Finch multiple times in a three-week period - - reaffirmed for me the knowledge that treating others fairly, with impartiality, with integrity, and with dignity is critical to the practice of law and our judicial system. These are characteristics that I would like to bring to the bench. If elected, I plan to be a judge known for her good temperament, patience, scholarship, work ethic, and willingness to make a decision.

Service has been an important part of my life for as long as I can remember, and I can think of nothing that I would rather do than serve the people of South Carolina in this position.

50. References:

- (a) The Honorable J. Al Cannon, Jr.  
Charleston County Sheriff

3505 Pinehaven Drive  
North Charleston, S.C. 29405  
(843) 202-1700

(b) The Honorable Joseph P. Riley, Jr.  
Mayor, City of Charleston  
P.O. Box 652  
Charleston, S.C. 29402  
(843) 577-6970

(c) J. Brady Hair  
City Attorney  
City of North Charleston  
7741 Dorchester Road  
North Charleston, S.C. 29418  
(843) 572-8700

(d) Amy L. Gaffney  
Gaffney, Lewis & Edwards, LLC  
3710 Landmark Drive, Suite 304  
Columbia, S.C. 29204  
(803) 223-9745

(e) Julie Trent  
Wachovia Bank N.A.  
Balance Confirmation Services  
P.O. Box 40028  
Roanoke, VA 24022-7313  
(540) 563-7323

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Stephanie P. McDonald

Date: September 10, 2010



JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Stephanie Myrick Pendarvis McDonald  
Business Address: Senn, McDonald & Leinbach, LLC  
3 Wesley Drive  
Charleston, SC 29407  
Business Telephone: (843) 556-4045

1. Why do you want to serve as a Circuit Court judge?

I love the law and the courtroom, and I believe that I have the temperament and the experience to effectively serve the people of South Carolina. I enjoy an intellectual challenge and would like to have the opportunity to learn more about the areas of the law in which I have not had the opportunity to practice. Since I have been a trial lawyer for sixteen years, I have seen things that work and do not work with regard to the effective administration of a courtroom and a docket, and I would like to have the chance to try to improve the experiences of litigants, lawyers, court personnel, and others who come into contact with our judicial system.

2. Do you plan to serve your full term if elected? Yes.

3. Do you have any plans to return to private practice one day?

Not at this time, but I certainly would if I could no longer serve as a judge.

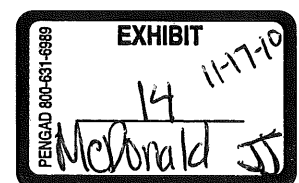
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

*Ex parte* communications regarding scheduling or administrative matters are at times necessary, particularly for a Chief Administrative Judge. Still, such contacts can usually be handled efficiently by e-mail with copies to all attorneys/parties involved in a matter. Pursuant to Canon 3(B)(7), I would not allow or participate in such communications, unless the parties are engaged in an attempt to settle or mediate a matter and need the assistance of the Court to do so.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Pursuant to Canon 2 and Canon 3(E), I would recuse myself from all matters involving my former law partners. Recusal is not practical in



the case of lawyer-legislators, unless there is some other bias involved, as such attorneys would never be able to find any state court judge to hear their cases.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would probably recuse myself unless it appeared that the attorney or party was "judge-shopping" or merely seeking to delay the case. I would give the party a good bit of deference and consider such a motion "in the light most favorable to the moving party." I would also look to Canon 3(E) for guidance.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would not preside over a case in which a close family member is a party or a witness. To me, presiding over such a case would implicate Canon 2 requiring that a judge avoid even the "appearance of impropriety" and Canon 3 (E)(d).

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would accept "ordinary social hospitality" as permitted by Canon 4(D)(5)(c). With group dinners and other such events, it would simply be easier and more appropriate for me to "pay my own way" or just split the bill. I do know that certain legal associations invite all of the judges to their events, and I believe that they cover some meals and lodging. As I think that it is important for judges to attend law-related functions and other events devoted to the improvement of the law and relationships among the members of the bar, I would accept reasonable invitations in accordance with Canon 4(D)(5)(a).

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

My response would depend upon whether I had actual knowledge of a violation raising a substantial question as to the fitness or trustworthiness of the lawyer or judge or whether I had simply received information suggesting that a violation had occurred. Under Canon 3(D), I would either "take appropriate action" or report the violation - - or both - - depending on the specifics of the situation.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

Yes. I currently sit as an attorney member of the South Carolina Commission on Judicial Conduct. If I am elected, I would no longer be eligible to serve as an attorney member of this Commission.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

I would initially draft my own orders, based upon the memoranda submitted by the parties and my own research as needed. In appropriate situations, I would request that the prevailing party draft an order, which I would then review for accuracy. I would also get my law clerk involved in the drafting of orders as I believe that this is a great skill for them to learn. One of my pet peeves involves lawyers who inaccurately cite law to the court or just "make things up" that are in no way supported by the record.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would use a method similar to that which we use at our law office now. All correspondence is stamped and calendared as it comes in to the office, and deadlines are noted on a deadline system which provides a timeline notification ahead of the actual deadline date. The timelines/deadlines are color-coded and, as I receive items, I check to ensure that they are already noted on the calendar. I generally review my calendar and deadlines for the upcoming week on the preceding Thursday or Friday, and I also flag deadlines in my e-mails as an additional safeguard. I doubt that I would have as many deadlines to handle in a judicial capacity as I have now.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

A judge's duty is to interpret the law, according to the Legislature's intent, and in accordance with the United States and South Carolina Constitutions. I do not believe in "legislating from the bench."

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I believe that is important for judges to speak at CLEs and to be accessible to those who practice before them. In Charleston, we have had a Bench/Bar group which meets to exchange ideas about how to improve the system, the administration of justice, and the quality of life for those engaged in what can be a very stressful profession. I also think that it is important for the judiciary to interact with young lawyers and to encourage civility in the profession, both in and out of the courtroom.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

Not at all. My family is very supportive, and three sets of grandparents live within a five (5) mile radius of my twelve-year old. My daughter's father and stepmother are also very supportive, and I am fortunate to have a good relationship with them. I cannot imagine that serving as a judge would strain any of my personal relationships or friendships.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Obviously, this would depend on the severity of the crime, but as we have seen here in Charleston and in nearby Colleton County, violent repeat offenders need to do some prison time. Many minor repeat drug offenders, however, are dangerous only to themselves, and there simply is not room in our local detention facilities or at SCDC to house them. Jailing them does not generally serve a rehabilitative purpose, and treatment or monitoring would be more appropriate. It is far more cost-effective and humane to enable such offenders to get some help in appropriate situations. The reforms recently enacted as a result of the Sentencing Reform Commission will help to address this situation.

b. Juveniles (that have been waived to the circuit court):

As with all offenders, juveniles need to be considered on a case-by-case basis, and every effort needs to be made to rehabilitate them (and this is constitutionally required) without prison time. Alternate sentences are a possibility, but if the juvenile is violent and/or has been involved in a series of escalating crimes, then jail time would be appropriate. SCDC's Youthful Offender program may be an option in those cases that require prison time; however, not all juvenile and young offenders meet the requirements of this program.

c. White collar criminals:

First and foremost, white collar criminals need to provide restitution to their victims, and probation may be necessary in order to enable them to do this. I think we have a problem in our society, however, in that we allow some white collar criminals great lenience while over-punishing others for crimes which hurt only the offender.

d. Defendants with a socially and/or economically disadvantaged background:

Again, this depends on whether the offender is charged with a violent or serious crime. These are one or two of many factors which I would want to consider when making a sentencing decision.

e. Elderly defendants or those with some infirmity:

First, I would need to know whether or not the infirmity is a sign of diminished mental capacity and what circumstances were involved. As with each of these categories, whether the person is a danger to himself or to others would be a part of the analysis. Input from a family physician, where available, would be key, and often home monitoring or probation might be an option. SCDC's capacity to house such an offender safely would also be factor in my decision.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

If the interest were truly "de minimis," I might hear the case. Generally, though, I would prefer to recuse myself in such a situation.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?

Yes. I am a member of the Junior League of Charleston, Inc., which is an organization of women committed to promoting voluntarism, developing the potential of women, and improving the community through the effective action of trained volunteers. Its purpose is exclusively educational and charitable, and membership is open to women of all races, creeds, and national origin.

I am also a member of the S.C. Women Lawyers Association.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

Demeanor is critical to a judge's credibility and ability to do his or her job. A judge should be courteous, patient, and treat everyone with dignity and respect. Clearly, a judge must maintain order in the courtroom, but this is never an excuse for rudeness or "robitis."

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

These rules would apply twenty-four/seven, and they are important to a judge's credibility.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

No, although I imagine that judges, like all human beings, can get frustrated at times. As my practice often involves the defense of governmental officials or law enforcement and correctional officers, I have encountered many angry *pro se* litigants during the course of my career. I have always been able to deal courteously with these litigants.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

I have not yet spent any money on this campaign; however, I will be doing a mailing shortly. At that time, I will report those expenditures to the House and Senate Ethics Committees.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable.

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

I have not asked any third parties to make such contacts. Friends and colleagues have offered to contact members of the General Assembly, but I do not know if they have done so. I have been introduced to several members of the General Assembly at various functions.

31. Have you contacted any members of the Judicial Merit Selection Commission?

No, but I have seen or been introduced to members of the Judicial Merit Selection Commission at various functions and meetings, such as our local Legislative Delegation meetings, over the past year.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Stephanie Myrick Pendarvis McDonald

Sworn to before me this 12<sup>th</sup> day of September, 2010. \_\_\_\_\_

Notary Public for S.C.

My Commission Expires: 8-6-2018 \_\_\_\_\_

## Laurie Traywick

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**From:** Paula Benson  
**Sent:** Tuesday, November 16, 2010 10:49 AM  
**To:** 'McGregor, Tara (USASC)'  
**Cc:** Jane Shuler; Laurie Traywick  
**Subject:** RE: Change in Employment

Tara,

Thank you for your e-mail. Please send an e-mail in response to this one updating your answer to Question 14 of the PDQ to indicate that you have just accepted this new position. We will include it with your materials to be presented to the Commission and placed on the public record.

Again, thank you for letting us know. If you have any questions call me at 212-6636.

Paula

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**From:** McGregor, Tara (USASC) [mailto:Tara.McGregor@usdoj.gov]  
**Sent:** Monday, November 15, 2010 8:56 AM  
**To:** Paula Benson  
**Subject:** Change in Employment

Paula:

I have been offered and accepted a job with another division of the Department of Justice. It came quickly and unexpectedly, so I will be moving to another building here in Columbia. How should I handle updating my employment information with you?

Thank you for your help,

Tara L. McGregor

Assistant United States Attorney

Department of Justice

United States Attorney's Office

District of South Carolina

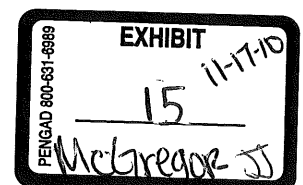
1441 Main Street, Suite 500

Columbia, South Carolina 29201

Office: 803-343-3162

Cell: 803-509-2617

Fax: 803-254-2943



## Laurie Traywick

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**From:** McGregor, Tara (USASC) [Tara.McGregor@usdoj.gov]  
**Sent:** Thursday, October 21, 2010 4:36 PM  
**To:** Paula Benson  
**Cc:** Jane Shuler; Laurie Traywick  
**Subject:** RE: Changes to PDQ  
**Attachments:** PDQFORM Fall2010 new.doc

Paula:

I have attached my amended PDQ. Please note the changes to questions 9 and 10. On question 9 I added my positions with the Richland County Department of Social Services, Richland County Public Defender's Office, South Carolina House of Representatives and the WK Kellogg Foundation. On question 10 I added a CLE seminar that I attended at the end of September.

Thank you for time and attention,

Tara L. McGregor

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**From:** Paula Benson [mailto:PaulaBenson@scsenate.gov]  
**Sent:** Thursday, October 21, 2010 3:45 PM  
**To:** McGregor, Tara (USASC)  
**Cc:** Jane Shuler; Laurie Traywick  
**Subject:** Changes to PDQ

Dear Tara,

Thank you for a very pleasant meeting today. It was good to catch up with you about all your accomplishments and activities.

Please use this e-mail as a connection to let us know any changes you would make to your PDQ. As I understood, you would like to amend your answer to question 9 to include that you worked as a law clerk for the Senate Judiciary Committee while in law school. Also, you had recently attended a CLE that you wanted to add to your response to question 10.

Again, thank you for your diligence in this process. If I may be of assistance to you, please do not hesitate to contact me.

Paula Benson  
Senior Staff Attorney  
S.C. Senate Judiciary Committee  
(803) 212-6636



Court: Richland County Family Court  
Grounds: One year continuous separation without cohabitation

- (c) State the names of your children and their ages. If your children are old enough to work, include the occupation of each child.

Keith Shon McGregor Jr. 4 years old  
Carlotta Drew McGregor 16 months

*Note: The Commission no longer publishes the information relating to children.*

6. Have you served in the military? If so, give the dates, branch of service, highest rank attained serial number, present status, and the character of your discharge or release.

No

7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.

- (a) South Carolina State University, 1991-1995, B.A. in Psychology  
(b) University of South Carolina School of Law, 1996-1999, Juris Doctor of Law

8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

I took the bar exam and was admitted to practice in South Carolina in 1999. I am presently in good standing.

9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

South Carolina State University activities:

- (a) 1991-1995 Recipient, Presidential Academic Medal  
(b) 1994-1995 President, Zeta Phi Beta Sorority, Incorporated

University of South Carolina School of Law activities:

- (a) 1996-1999 Recipient, University of South Carolina Merit Scholarship  
(b) 1997 Legislative Aide, South Carolina House of Representatives  
(c) 1997 Child Welfare Fellow, W. K. Kellogg Foundation  
(d) 1997-1998 Contracts Tutor, University of South Carolina School of Law  
(e) 1997-1999 Law Clerk, Richland County Department of Social Services  
(f) 1997-1999 Member, University of South Carolina Pro Bono Board

- |               |   |
|---------------|---|
|               | Pro Bono Service Award  |
| (g) 1998      | Law Clerk, Richland County Public Defender's Office           |
| (h) 1998-1999 | Member, University of South Carolina Moot Court Bar           |
| (i) 1998-1999 | Vice President, Public Interest Law Society                   |
| (j) 1998-1999 | Community Service Chair, Black Law Students Association       |
| (k) 1998-1999 | Volunteer, Guardian Ad Litem                                  |
| (l) 1998-1999 | Member, John Belton O'Neill Inn of Court                      |
| (m) 1998-1999 | Law Clerk, Senate Judiciary Committee, South Carolina Senate  |
| (n) 1999      | Recipient, University of South Carolina Compleat Lawyer Award |

10. Describe your continuing legal or judicial education during the past five years.<sup>1</sup> Include **only** the title and date of any continuing legal or judicial education course completed. **Do NOT attach a separate list. This must be listed on your completed PDQ form.**  
(Example format below - Please do not insert a table.)

Conference/CLE Name	Date(s)
(a) Project Safe Childhood Seminar	September 28-October 1, 2010
(b) Professional Responsibility Issues in Personal Liability Litigation	February 18, 2009
(c) Criminal Immigration Seminar	March 17-21, 2008
(d) Financial Litigation	November 14-15, 2007
(e) Basic Human Trafficking	May 30- June 1, 2007
(e) Prosecuting Federal Sexual Assault Cases	January 25-27, 2006
(f) Forensics for Criminal Prosecutors	February 22-24, 2006
(g) Project Safe Neighborhoods	May 2-6, 2006
(h) Methamphetamine Conference	July 19-21, 2006
(i) USAO- Annual Training	December 8, 2006
(j) Financial Investigations	August 1-5, 2005
(k) USAO- Criminal Division Training	February 11, 2005
(l) Title III Seminar	June 1-3, 2005

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.

(Example format below - Please do not insert a table.)

- (a) I have lectured on the subject of Federal Grand Jury to Department of Justice employees at a Criminal Paralegals course at the National Advocacy Center, Columbia, South Carolina.
- (b) I have lectured on the subject "Being an Effective AUSA" to new Assistant United States Attorneys at the Department of Justice, Washington, D.C.
- (c) I have served as a trial advocacy instructor for Department of Justice attorneys at the National Advocacy Center, Columbia, South Carolina.

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<sup>1</sup> This information may be obtained from the Commission on CLE & Specialization, 950 Taylor Street, Suite 120, P.O. Box 2138, Columbia, SC 29202, Telephone number (803) 799-5578.

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9

1. NAME: Tara Lyons McGregor  
BUSINESS ADDRESS: 1441 Main Street, Suite 500  
Columbia, S.C. 29201  
E-MAIL ADDRESS: TML5427@yahoo.com  
TELEPHONE NUMBER: (office): 803-343-3162
2. Date of Birth: 1974  
Place of Birth: Plainview, N.Y.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Divorced on February 7, 2002, Richland County Family Court, Ms. Sheil was the moving party. One Year's Continuous Separation. Married on December 31, 2004, to Keith Shon McGregor. Two children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) South Carolina State University, 1991-95, B.A. in Psychology;
  - (b) University of South Carolina School of Law, 1996-99, J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

I took the bar exam and was admitted to practice in South Carolina in 1999. I am presently in good standing.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

S.C. State University activities:

  - (a) 1991-95 Recipient, Presidential Academic Medal;
  - (b) 1994-95 President, Zeta Phi Beta Sorority, Incorporated.

University of South Carolina School of Law activities:

  - (a) 1996-99 Recipient, University of South Carolina Merit Scholarship;
  - (b) 1997-99 Member, University of South Carolina Pro Bono Board  
Pro Bono Service Award;
  - (c) 1998-99 Member, University of South Carolina Moot Court Bar;
  - (d) 1998-99 Vice President, Public Interest Law Society;

- (e) 1998-99 Community Service Chair, Black Law Students Association;
  - (f) 1998-99 Volunteer, Guardian Ad Litem;
  - (g) 1998-99 Member, John Belton O'Neall Inn of Court;
  - (h) 1999 Recipient, USC Compleat Lawyer Award.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.
- | <u>Conference/CLE Name</u>   | <u>Date(s)</u>        |
|--|-----------------------|
| (a) Professional Responsibility Issues in<br>Personal Liability Litigation | February 18, 2009;    |
| (b) Criminal Immigration Seminar   | March 17-21, 2008;    |
| (c) Financial Litigation   | November 14-15, 2007; |
| (d) Basic Human Trafficking  | May 30- June 1, 2007; |
| (e) Prosecuting Federal Sexual Assault Cases                               | January 25-27, 2006;  |
| (f) Forensics for Criminal Prosecutors                                     | February 22-24, 2006; |
| (g) Project Safe Neighborhoods   | May 2-6, 2006;        |
| (h) Methamphetamine Conference   | July 19-21, 2006;     |
| (i) USAO- Annual Training  | December 8, 2006;     |
| (j) Financial Investigations   | August 1-5, 2005;     |
| (k) USAO- Criminal Division Training                                       | February 11, 2005;    |
| (l) Title III Seminar  | June 1-3, 2005.       |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have lectured on the subject of Federal Grand Jury to Department of Justice employees at a Criminal Paralegals course at the National Advocacy Center, Columbia, S.C.;
  - (b) I have lectured on the subject "Being an Effective AUSA" to new Assistant United States Attorneys at the Department of Justice, Washington, D.C.;
  - (c) I have served as a trial advocacy instructor for Department of Justice attorneys at the National Advocacy Center, Columbia, S.C.
12. List all published books and articles you have written and give citations and the dates of publication for each. Not applicable.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) State of South Carolina November 15, 1999;
  - (b) United States District Court of South Carolina January 18, 2001;
  - (c) United States Court of Appeals, Fourth Circuit January 2, 2001.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated.

Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

After graduating from law school, I began a judicial clerkship with the Honorable Henry F. Floyd in the Thirteenth Judicial Circuit, State of South Carolina. Under the general supervision of the judge, I performed legal research, composed legal memorandums, opinions and orders.

In July 2000, I was offered a job at the Richland County Public Defender's Office as an Assistant Public Defender. For three and a half years, I provided quality representation to the indigent population of Richland County in misdemeanor and felony criminal cases. I managed a team of four junior attorneys; my responsibilities included case review and mentoring. I also served as coordinator for Drug Court, which provided alternative dispositions for those convicted of drug offenses. I remained with that office until October 2003.

In October 2003, I became an Assistant United States Attorney in the United States Attorney's Office, District of South Carolina. As a federal prosecutor, I handled a wide variety of complex federal violations including crimes of violence, firearms, narcotics, human trafficking, child pornography, and immigration. From 2003 to 2007, I served as the District's Project Sentry Coordinator, responsible for community outreach and creation of initiatives related to the prevention of school gun violence.

In October 2007, I accepted a temporary detail to the National Advocacy Center, Executive Office for United States Attorneys within the Department of Justice. As an Assistant Director I was responsible for the development, execution and management of federal training for Department of Justice and other Executive Branch personnel. While assigned to the Legal Programs and Legal Support Staff Training Teams I coordinated appearances of the Attorney General, Deputy Attorney General and Solicitor General of the United States. During my tenure, I was asked by Department of Justice leadership to assist with special projects including Professionalism Training for Department of Justice Attorneys, as well as with background investigations for United States Attorney and United States Marshal candidates.

In August 2010, I returned to the Criminal Division of the United States Attorney's office where I am currently serving as the district's Project Safe Childhood Coordinator, responsible for the prosecution of childhood exploitation cases, community outreach and interdiction, and the district's Criminal Civil Rights contact, responsible for the prosecution of civil rights violations such as hate crimes and police misconduct matters.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (a) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the

issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Over the past five years I have prosecuted criminal matters in federal court. I have had the opportunity to master issues related to narcotics, violent crimes, illegal weapon possession, bank robbery and homicides. My experience also extends to white collar crimes such as police misconduct, human trafficking, hate crimes, child pornography, social security fraud, and identity theft and immigration violations. The prosecution of these cases has allowed me to use become familiar with the grand jury and Title III (telephone wire taps), and even policy and procedures regarding the federal death penalty.

Prior to working with the Department of Justice, United States Attorney's Office, I spent approximately three and a half years as a public defender. As a public defender in Richland County Circuit Court I have experience with everything from a preliminary hearing to jury trial.

In order to balance my experience as it relates to civil issues, I would review the rules of civil procedure, rely on relevant continuing legal education materials, as well as using research tools like Westlaw and Lexis. Furthermore, when faced with a novel issue, I would turn to my fellow judges for advice.

15. What is your rating in Martindale-Hubbell?

Not listed in Martindale-Hubbell because I have never been employed in private practice.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?

(a) federal: January 2005- January 2008 weekly;  
January 2008- July 2010 none;  
August 2010 – present weekly.

(b) state: none

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?

(a) civil: 0%;

- (b) criminal: 100%;
- (c) domestic: 0%;
- (d) other: 0%.

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 100%;
- (b) non-jury: 0%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel in 70% of matters.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) United States v. Ernest Wrenn: the federal prosecution of a licensed firearms manufacturer and dealer for illegally manufacturing and distributing machine guns, mail fraud and lying to a federal law enforcement agent. This case was significant because it was the first of its kind in the country. With approximately twenty uncooperative purchasers, we began a trial. After we had presented 50% of our case, the defendant offered to plead guilty and was ordered to pay over \$200,000 in restitution.
- (b) United States v. Perez Laguna: the federal prosecution of three defendants on charges on human trafficking. This case was significant because it involved a thirteen year old immigrant victim who was forced into prostitution. Based on our investigation we were not only able to convict two of three defendants (third defendant is still a fugitive) but we were able locate and provide assistance to other victims of the prostitution ring.
- (c) United States v. Kenneth Reid: the federal prosecution of a drug dealer from Rock Hill, S.C. for various narcotics violations and the related murder of a witness. This case is significant because it required that we file documentation with the Attorney General of the United States regarding death penalty eligibility. Furthermore, it allowed us to assist state and local law enforcement in Rock Hill to seek justice for the victims and community.
- (d) United States v. Marion Mays: the federal prosecution of a drug dealer from Aiken, S.C. for various narcotics violations and the related murder of a witness. Furthermore, it allowed us to assist state and local law enforcement in Aiken to seek justice for the victims and community.
- (e) State of S.C. v. Bennie Black: the state charged a homeless man with arson, alleging that he had burned down a law office. This case was significant because after serving a year of pre-trial incarceration, as defense counsel I successfully argued a motion for directed verdict. The judge granted the motion citing that the state had failed to prove an essential element of the arson statute during their case in chief.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. Not applicable.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
- (a) United States v. Tron Anderson, United States Court of Appeals, Fourth Circuit, November 14, 2005;
  - (b) United States v. George Cummings, United States Court of Appeals, Fourth Circuit, September 20, 2005;
  - (c) United States v. Rodrick Williams, United States Court of Appeals, Fourth Circuit, November 15, 2007;
  - (d) United States v. David Simpson, United States Court of Appeals, Fourth Circuit, May 10, 2006;
  - (e) United States v. Benjamin Bolin, United States Court of Appeals, Fourth Circuit, September 10, 2007.
22. Have you ever held judicial office? No
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. No
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No
28. Are you now an officer or director or involved in the management of any business enterprise? No
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.
- I am not aware of any current or past financial arrangements or business relationships that could constitute or result in a possible conflict of interest. If one were to arise I would evaluate whether recusal would be necessary.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal



law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?  
No.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. No
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. No
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. No
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. No
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No

44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) S.C. Bar Association;
  - (b) National Association of Assistant United States Attorneys.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- Friends of the Richland County Public Library, Board Member
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
- I have had the opportunity of serving as a law clerk, defense attorney, prosecutor, and juror. I have also been involved in the criminal justice system as the victim of a crime. I believe the combination of each one of these experiences has afforded me a unique perspective which renders me well suited for the bench. My experiences will allow me to empathize with victims, treat litigants professionally, and appreciate the sacrifices made by members of the community when they serve on our juries.
50. References:
- (a) Lesley Coggiola  
Office of Disciplinary Counsel  
P.O. Box 12159  
Columbia, S.C. 29211
  - (b) Jonathan Gasser  
Harris & Gasser  
1529 Laurel Street  
Columbia, S.C. 29201  
803-779-7080
  - (b) Michael Bailie  
Department of Justice  
Office of Legal Education, National Advocacy Center  
1620 Pendleton Street  
Columbia, S.C.  
803-705-5000

- (c) Lynne Rogers  
S.C. Department of Labor Licensing & Regulation  
P.O. Box 11329  
Columbia, S.C. 29211  
803-896-4499
- (e) Sylvia McCracken,  
SC Telco Federal Credit Union  
10 Toy Street  
Greenville, S.C. 29063  
803-256-3132

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Tara L McGregor

Date: September 13, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Tara Lyons McGregor  
Business Address: 1441 Main Street, Suite 500  
Columbia, South Carolina 29201  
Business Telephone: 803-343-3162

1. Why do you want to serve as a Circuit Court judge?

During my 11 years of legal practice, I have served as both defense counsel and prosecutor. Becoming a Circuit Court Judge would allow me to put my experience to work for the people of South Carolina.

I also believe I can make a positive difference in the lives of our citizens based on life lessons learned in the courtroom.

2. Do you plan to serve your full term if elected? Yes.

3. Do you have any plans to return to private practice one day?

I have no plans to practice as a private attorney.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

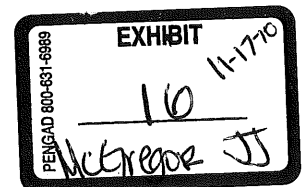
Judges should not permit or consider "*ex parte* communications" in deciding a case unless expressly allowed by law. I would not allow *ex parte* communications in the interest of fairness and making my decisions based only on the evidence and arguments presented to me and the applicable law. In this way, I can preserve public trust in our legal system.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I believe recusal is an appropriate action in any matter where I am personally familiar with the parties or facts of the case. I also believe that recusal may be appropriate when the appearance of bias exists. I would make this determination on a case by case basis.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would give great deference to the moving party. I would listen to the facts presented by all parties and after discussion; I would recuse myself if any appearance of impropriety still existed.



8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would disclose the potential conflict to all parties. After hearing from all parties involved, I would make a decision based on the facts presented. If necessary, I would recuse myself in order to avoid any appearance of impropriety.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would not accept gifts from a party litigant or any person whose interests have come or are likely to come before me. I would attend social engagements open to people other than judges and court personnel. However, I would avoid any social engagements that may result in the appearance of impropriety.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

If appropriate, I would share my concerns with the lawyer or fellow judge. Ultimately, if appropriate, I would report the misconduct to the appropriate agency.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

I would request that the parties submit proposed orders. Within 10-30 days, I would draft my own order and file.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would require the use of Microsoft Outlook, or similar software, for a shared calendar system. With this software, I would insist that my staff maintain our daily schedule, and set reminders for tasks. I would also institute this system for the timely handling of correspondence.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

Rulings should not be based on a judge's personal beliefs but on precedent created by existing law. When a novel issue is presented, the judge should analyze the facts, review precedent in other jurisdictions, and weigh it against existing public policy to determine the appropriate ruling.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

First, I would seek to increase the use of technology in the courtroom. I think it increases efficiency. Second, I would seek ways to increase partnerships between our legal community and community youth.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

No. My family and friends fully support me in seeking this opportunity. If I were to become a member of the judicial community, maintaining these relationships would serve to alleviate any pressure that may exist.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

I consider the following categories to be either aggravating or mitigating circumstances and would render a sentence that reflects the seriousness of the crime charge and harm suffered, balanced against the totality of the circumstances of the crime charged.

- a. Repeat offenders:

My philosophy regarding repeat offenders is that each reoccurrence before the Court should result in a proportionate increase in sentence.

- b. Juveniles (that have been waived to the circuit court):

My philosophy regarding juveniles involves balancing our ability to rehabilitate these children and the available methods of doing so with my need to protect our community from the crimes they may commit. When appropriate, I will consider the Youthful Offender Act as an appropriate sentence.

- c. White collar criminals:

My philosophy regarding white collar criminals would be similar to any other type of defendant. However, I would strive to focus on the collection of restitution and the importance of compensating victims.

- d. Defendants with a socially and/or economically disadvantaged background:

My philosophy regarding defendants with a socially and/or economically disadvantaged background is to determine how the social or economic disadvantages impacted the crime committed. If appropriate I would consider how to address these disadvantages by including special conditions in the sentence.

- e. Elderly defendants or those with some infirmity:

My philosophy regarding elderly defendants or those with some infirmity is to focus on the crime committed. Unless I believed that an issue of competency existed, I would focus on the harm suffered and the most effective way for me to protect the community from future crimes.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

20. Would you hear a case where you or a member of your family held a *de*

- minimis* financial interest in a party involved? No.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
23. What do you feel is the appropriate demeanor for a judge?  
I believe appropriate judicial demeanor is one of dignity and respect. Judges should treat all parties in an impartial manner.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?  
These characteristics are demonstrated at all times.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?  
No. Anger is an inappropriate reaction when dealing with parties, attorneys, staff or defendants. Commanding respect and maintaining order in the courtroom should not be interpreted as a license to be rude or disrespectful.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
Not applicable.
28. Have you sought or received the pledge of any legislator prior to this date? No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Tara Lyons McGregor

Sworn to before me this 13<sup>th</sup> day of September, 2010. \_\_\_\_\_

Notary Public for S.C.

My Commission Expires: 2-11-2012 \_\_\_\_\_





## McLEOD, FRASER & CONE

W. J. McLEOD, JR.  
(1906-1994)  
DONALD H. FRASER  
PEDEN B. McLEOD  
GEORGE W. CONE  
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THOMAS I. HOWARD  
J. REAVES McLEOD  
ASHLEY H. AMUNDSON

ATTORNEYS AT LAW  
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P.O. DRAWER 230  
WALTERBORO, S.C. 29488-0003

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TELECOPIER  
(843)549-2306  
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October 22, 2010

Jane O. Shuler, Esquire  
Chief Counsel  
Judicial Merit Selection Commission  
Post Office Box 142  
Columbia, SC 29292

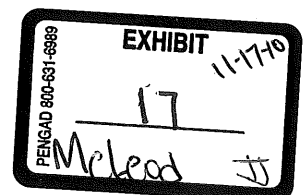
Re: Circuit Court At-Large Judicial Seat #9  
Amending Answer to Personal Data Questionnaire, Question #46  
Sworn Statement, Question #31

Dear Ms. Shuler:

This letter is to serve as an amendment to a couple of questions where some concerns were raised in my recent interview with you. I hereby amend my answer to question #41 in my personal data questionnaire to reflect that \$74.80 was spent in mailing letters of introduction to the members of the General Assembly. I also amend my answer to question #8 in my personal data questionnaire to reflect the specific date of admission into the South Carolina Bar as November 18, 2002. In addition to the above, I amend my answer to my sworn statement, question #5, to reflect that ex parte communications are acceptable when the law provides for such acceptance and also amend my answers to question #26, to reflect that \$74.80 has been spent on my campaign. If you have any questions or concerns, please feel free to contact me.

Very truly yours  
MCLEOD, FRASER & CONE

  
J. Reaves McLeod



## McLEOD, FRASER & CONE

W. J. McLEOD, JR.  
(1906-1994)  
DONALD H. FRASER  
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TELECOPIER  
(843)549-2306  
-----

October 26, 2010

Jane O. Shuler, Esquire  
Chief Counsel  
Judicial Merit Selection Commission  
Post Office Box 142  
Columbia, SC 29292

Re: Circuit Court At-Large Judicial Seat #9  
Amending Answer to Personal Data Questionnaire, Question #49

Dear Ms. Shuler:

Thank you for meeting with me recently regarding my candidacy for Circuit Court At-Large Judicial Seat #9. This letter is to serve as an amendment to question #49 of the personal data questionnaire, which was previously submitted.

After completing the bar exam, I was hired to serve as a Law Clerk for Jackson V. Gregory, Circuit Court Judge for the 14<sup>th</sup> Judicial Circuit. During my year of service with Judge Gregory, I conducted research for all stages of litigation that was coming before Judge Gregory. Such research was done for summary judgment motions, motions to change venues, motions to dismiss, and all other types of pre-trial motions. Also research was conducted on trial rulings, jury charges, and post-trial motions such as Judgments Notwithstanding the Verdict, Motions for New Trials, and Motions to Alter and Amend. In addition, research and composition was performed on rulings and orders that were to be issued by Judge Gregory. I was present at all the motion and non-jury terms of court as well as the General Sessions and Common Pleas terms of Court through out the entire year, which obviously subjected me to many entire trials, many more than a practicing attorney would participate in over several years.

After completing my law clerkship with Judge Gregory, I was hired by McLeod, Fraser, and Cone, primarily as a trial attorney, and subsequently hired by the City of Walterboro to serve as its City Prosecutor. During this time as City Prosecutor, I was responsible for preparing and prosecuting all jury trials involving city charges. I also was called upon to present evidence for the City at preliminary hearings. When I was appointed as City Prosecutor, the backlog of jury trials in City Court was tremendous. Municipal Court Judge Ray Woodard and I worked at the direction of City Council to reduce the backlog of cases. Although most attorneys did not like the remedy, the day for jury trials was moved to Saturdays, thus limiting the conflicts, which defendants and their attorneys had with schedules and judicial matters in other courts, which took priority over Municipal Court. With cooperation between the Municipal Judge and myself, the backlog of

cases was drastically reduced. During my three-year tenure as City Prosecutor, I was, not only handling matters for the City, but also actively engaged in private general practice with McLeod, Fraser, and Cone.

In August 2007, Governor Sanford appointed me as a Colleton County Magistrate. Senators Clementa Pinckney, John Matthews, and Larry Grooms, all of the Colleton County Senate Delegation, recommended my appointment to Governor Sanford. As a Magistrate, I have handled every stage of a criminal proceeding. I have issued arrest warrants and search warrants, issued bonds, held arraignments, and presided over preliminary hearings to decide whether to dismiss the criminal complaint or bind the matter over to the grand jury. Further, I have held bench trials as well as jury trials, with both pro se defendants and defendants represented by counsel. I have heard and ruled on procedural matters, evidentiary matters, and all other issues that are associated with criminal procedure and the protection of the rights of defendant as well as the rights of victims. At the end of each trial where guilt has been established, I, as the Judge, have the duty to decide on the penalty to impose, be it fine or jail time under the appropriate state statutes. I have tried, and always try to render justice to all persons involved. As a Magistrate, from my appointment through June 30, 2010, my service yields the following criminal docket statistics:

General Criminal Docket-matters disposed of:

Bench Trials- 570

Jury Trials- 10

DUI Docket-matters disposed of:

Bench Trials- 47

Jury Trials- 4

Traffic Docket-matters disposed of:

Bench Trials- 4,660

Jury Trials- 9

With respect to the cases assigned to me and disposed of on the Civil Docket (since my appointment date through June 30, 2010), the statistics show:

Civil Docket-

Cases/Matters Resolved- 1,192

via default, settlement, finding for plaintiff, finding for defendant, or dismissal.

Those cases would include both bench trials and jury trials. In addition to the general civil docket cases assigned to me, I am assigned to hear eviction matters. I have disposed of more than 930 eviction matters in the time frame from my appointment through June 30, 2010.

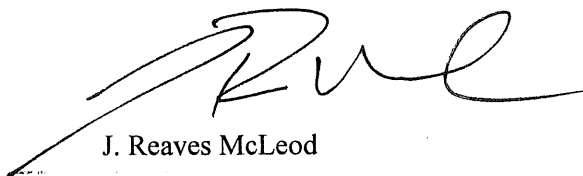
Currently, I am assigned to two full days each week of presiding at Magistrate's Court. The other three days of the week are dedicated to performing my duties in my current law practice. Because of my duties as a Magistrate Judge, I do not practice in General Sessions because of the obvious conflict of interest.

From July 1, 2008 to June 30, 2009, there were a total of 955,535 cases disposed of by Magistrates like myself in the State of South Carolina. Of that number 133,171 cases were on the criminal docket; 617,505 cases were on the Traffic Docket; 12,486 cases were on the DUI Docket; and 192,373 cases were on the Civil Docket. For the same time period in the State's General Sessions, cases disposed of numbered 123,315. Out of that number 51% of the cases were ended Nol Pros, 40% were guilty pleas, 1% were trials where guilt was found, and less than 1% were trials where guilt was not found. The total conviction rate was 41% and the total non-conviction rate was 51%. For the same year, the State's Common Pleas Courts had a total of 15,031 jury

cases pending; 44,061 non-jury cases pending; and 11,803 Master-in-Equity cases pending. This is a total of 70,895 cases. The South Carolina Court Administration provided the above information via Internet.

The above information is being provided to the Judicial Merit Selection Commission because the information positively reflects my experience and positively reflects on my candidacy for Circuit Court At-Large Judicial Seat #9.

Very truly yours

A handwritten signature in black ink, appearing to read 'J. Reaves McLeod', with a long, sweeping horizontal stroke extending to the left.

J. Reaves McLeod

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large Seat #9

1. NAME: John Reaves McLeod  
BUSINESS ADDRESS: 111 E. Washington St  
PO Box 230  
Walterboro, S.C. 29488  
E-MAIL ADDRESS: Reavesmcleod22@hotmail.com  
TELEPHONE NUMBER: (office): 843-549-2516
2. Date of Birth: 1973  
Place of Birth: Charleston, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Single. Never divorced. No children.
6. Have you served in the military? If so, give the dates, branch of service, highest rank attained, serial number, present status, and the character of your discharge or release. No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) Wofford College- 1991-95; B.A.- Government & History;
  - (b) Georgetown University- 1997-98; Paralegal Certificate;
  - (c) University of South Carolina School of Law- 1999-2002; J.D.;
  - (d) Georgetown University School of Law- Summer School-1999;
  - (e) The National Judicial College; Reno, NV- June 2009- Certificate;
  - (f) Special Courts Jurisdiction; Advanced.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state. South Carolina, 2002
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

Wofford College:

  - (a) Who's Who in American Colleges and Universities; 1994-95;
  - (b) South Carolina Student Legislature, Delegate; 1994-95;
  - (c) Interfraternity Council; 1993-95, President; 1994-95.

University of South Carolina School of Law:

  - (a) Phi Delta Phi;
  - (b) Student Government; Facilities Committee, Chairman; 2000-01.

10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	2010 S.C. Association for Justice Annual Convention	08/05-07/10;
(b)	S.C. Bar Convention; Criminal Law Update	01/22/10;
(c)	S.C. Bar Convention; ADR	01/21/10;
(d)	S.C. Bar Convention; Torts and Insurance Sections	01/23/10;
(e)	Sporting Clays; Ethics with Judges	04/29/10;
(f)	2009 S.C. Association for Justice Annual Convention	08/06-09/09;
(g)	Magistrates Mandatory School	10/30/09;
(h)	Sporting Clays; Ethics with Judges	10/22/09;
(i)	Special Courts Jurisdiction; Advanced	06/08-18/2009;
(j)	Hot Topics in Tax & Estate Planning	01/24/09-12/13/05;
(k)	7 <sup>th</sup> Annual Civil Law Update	01/23/09;
(l)	Magistrates Mandatory School	11/07/08;
(m)	2008 SCTL Annual Convention	08/07-10/08;
(n)	2006 Annual S.C. Solicitor's Convention	09/24-27/06;
(o)	2006 SCTL Annual Convention	08/03-06/06;
(p)	Truck Accident Litigation	06/26/06;
(q)	Solo & Small Firm Practitioners	01/28/06
(r)	Torts and Insurance Practice	01/28/06;
(s)	Forth Annual Civil Law Update	01/27/06;
(t)	Partnerships, LLC's & LLP's organization & operation	11/09/05;
(u)	South Carolina Solicitor's Annual Conf	09/25-28/05;
(v)	Attorney EFC training	06/30/05.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? No

12. List all published books and articles you have written and give citations and the dates of publication for each. N/A

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

- (a) Admitted to practice before the State Courts of South Carolina on November 18, 2002;
- (b) Admitted to practice before the South Carolina Federal District Court on August 12, 2004.

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

- (a) August 2002 – August 2003; Law Clerk for S.C. Circuit Court Judge Jackson v. Gregory. Duties- research and scheduling for the Judge.

- (b) August 2003 – Present; Attorney, McLeod, Fraser, and Cone. Duties- general practice, civil, criminal, insurance defense, tort, wills, trust, estates.
- (c) August 2003 – August 2007; Prosecutor of the City of Walterboro. Duties- prosecuted all criminal trials for the City of Walterboro, prepared and interviewed officers, prepared and interviewed victims and witnesses.
- (d) August 2007 – Present; Magistrate for Colleton County. Duties- preside over jury and bench trials, preside over hearings for motions, evictions, claims and deliveries, traffic court, preliminary hearings, bond court, issue arrest and search warrants. Until the office was consolidated, I was in charge of the Green Pond, S.C. office to which I was assigned. Recommended to Gov. by Senator Clementa Pinckney and Colleton County Senate Delegation, Appointed by Gov. Mark Sanford, Confirmed by the S.C. Senate.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I have handled criminal matters since 2003. Most of the criminal matters handled were done initially as the Prosecutor for the City of Walterboro. I prosecuted all criminal matters in which the defendants requested a jury trial. The issues ranged from DUIs and DUSs to assault and batteries. I also prosecuted shop lifting, simple larceny, speeding, simple possession of marijuana, and other minor drug offense. In General Sessions, I defended two criminal sexual conduct with a minor cases. Both were resolved in my clients favor. Because of my involvement with the City, I was limited in General Session matters. Since I became a Magistrate for Colleton County, I have heard and handled all cases that would come before a magistrate. As a magistrate, I not only hear criminal matters, but also civil matters. I hear all misdemeanor level crimes and crimes with jail time less than 30 days,

and those others allowed by law. I hear all civil matters with jurisdiction less \$7,500.00. In addition, I hear evictions, claims and deliveries, preliminary hearings, restraining orders, and also hold bond court.

My civil litigation experiences, in my private law practice, consist of mostly insurance defense matters. I handle private insurance companies but also handle insurance defense claims for state entities such as the Colleton County School District, Hampton County, the Town of Allendale and Allendale County to name a few. I have had experience in plaintiff tort actions as well.

Two civil matters that I have been involved with post verdict were Bewersdorf v. S.C. DOT and Colleton County and Padgett v. Colleton County. I represented Colleton County in both matters. In the latter, I represented Colleton County solely and in the former, my father, Peden B. McLeod and I represented Colleton County. In both cases my client was granted a directed verdict. In the Bewersdorf case, a directed verdict was granted based on the Public Duty Doctrine and that there was no negligence on the part of the county. The Bewersdorf case was appealed to the Court of Appeals. I handled the appeal solely. The Court of Appeals upheld the lower court's ruling pertaining to both defendants. The Appellant then asked for a writ of certiorari to the S.C. Supreme Court on the Court of Appeals' ruling in regards to the S.C. DOT only and did not ask for a writ of certiorari on the basis on the Court's ruling for my client.

In the Padgett case, the lower court granted a directed verdict to my client on the open and obvious condition of the area in which the plaintiff fell. The plaintiff appealed the directed verdict and such ruling was overturned. A writ of certiorari was denied and the case was settled prior to a retrial.

I do feel as if my experience as a prosecutor, private attorney, and a magistrate has given me a well-balanced approach in the law and would serve me well as a Circuit Court Judge. For any areas of the law where I lack experience from my law practice, I have had extensive experience in all facets of court while serving as a Law Clerk for a Circuit Court Judge. During law school, I worked in the Fifth Circuit Solicitor's Office and in the South Carolina Legislative Council, which consist of the Speaker of House, Lieutenant Governor, Secretary of State, Chairman of the Senate Judiciary Committee, Chairman of the House Judiciary Committee, the Code Commissioner and Director. All three positions, although none were long term, have helped prepare me for matters that would come before me as a Circuit Court Judge.

In addition to the above, I would like to note that I am a certified mediator for both Common Pleas and Family Courts, both of which are now mandatory in my home circuit, the 14<sup>th</sup> Judicial Circuit. I have been certified since 2007. The training and mediations that I have been



involved with also will help me gain experience in areas I may not have otherwise been exposed to in my practice of the law.

My involvement with mediation, the magistrate court system, as prosecutor, as defense and plaintiff's attorney in a general practice setting, as well as knowledge gained from my time behind the bench as a law clerk has instilled in me, what I consider a well rounded legal, temperament that is well suited for the position as a Circuit Court Judge.

15. What is your rating in Martindale-Hubbell?

Not rated. I have not gone through the rating process. George Cone, a partner in the office has recently approached me regarding this, and we have tried to start the process. My law firm's rating is an "A."

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?
- (a) federal: 5%;
  - (b) state: 95%(both for my private or prosecutor positions, not magistrate position).
17. What percentage of your practice involved civil, criminal, and domestic matters during the past five years?
- (a) civil: 65%;
  - (b) criminal: 10%;
  - (c) domestic: 25% (all for my private or prosecutor positions, not magistrate position).
18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: 90%;
  - (b) non-jury: 10% (both for my private or prosecutor positions, not magistrate position).

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) Jorg Bewersdorf v. S.C. DOT and Colleton County and Evette Bewersdorf v. S.C. DOT and Colleton County, 2007-UP-063; Court upheld the directed verdict granted to my client, Colleton County. The directed verdict was based on the Public Duty doctrine and the fact that there was no actionable negligence on the part of the County. The Court of Appeals upheld the directed verdict granted to my client.

- (b) Padgett v. Colleton County. Opinion #4542, 2009 WL1313240 (S.C.App.) Court reversed lower court's directed verdict for the County. A writ of certiorari was denied and the case settled prior to a retrial.
  - (c) Carla Jackson v. Town of Fairfax. 2007-CP-03-114. Jury awarded plaintiff \$250,000.00 in a case in which the plaintiff only had \$2,500.00 in actual damages. My post-verdict motions were based on, what I thought to be, an excessive verdict. All of my post verdict motions were denied.
  - (d) City of Walterboro v. Leon Bennett d/b/a B & B Recreation Center. Case no. 01-CP-15-85. Case involved the City's attempts to have the Recreation Center shut down as a public nuisance due to the numerous criminal matters that originated from and around the Center, including but not limited to drugs and violence. The Center was a blight on the community in which it was situated and most, if not all, the criminal matters were committed by those visiting the Center and not from the people that lived in the neighborhood. It was testified to that the Walterboro Public Safety Department responded to over fifty calls weekly to the Center. After several days in trial, the matter was settled out of court with the City taking control of the property on which the Center was located as well as some surrounding property. It is significant because, even today, the community has virtually been rid of the criminal element that was brought in by the Center. The police now receive essentially no calls from the community.
  - (e) Felicia Maxwell v. S.C. Department of Transportation, 2001-CP-15-287. In a wreck case, the jury found for the Plaintiff but found the Plaintiff more negligent than the S.C. DOT. The Plaintiff had over \$150,000.00 in medical expenses. The Plaintiff appealed a jury issue, but such appeal did not succeed. The S.C. DOT was my firm's client.
20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) Bewersdorf v. S.C. DOT and Colleton County. 2007-UP-063
  - (b) Padgett v. Colleton County. Opinion #4542
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. N/A
22. Have you ever held judicial office?
- Dates of Service- Appointed in August 2007. Presently serving.
- Magistrate for Colleton County
- Jurisdiction-
- Civil- Up to \$7,500.00
- Criminal- Misdemeanors and other offenses with jail time no more than 30 days or fine of \$500.00
- Countywide jurisdiction

Appointed by Governor, Recommended by Senate County Legislative Delegation.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

Orders generated by Magistrate Court are generally form orders. Upon appealed issues, a magistrate's Return is prepared and sent to the Circuit Court for a hearing.

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.

(a) Attorney; McLeod, Fraser, and Cone- supervisor- George W. Cone; August 2003 to present;

(b) Adjunct Professor; University of South Carolina- Salkehatchie-supervisor- Dean Ann Carmichael; professor of government, 2007-08.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

Yes. Unsuccessful candidate of South Carolina House of Representatives, District 121. June 2005, Special Election.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? Yes.

(a) Adjunct Professor; University of South Carolina- Salkehatchie-supervisor- Dean Ann Carmichael; 2007-08. Professor of Government at the local branch of the University of South Carolina;

(b) Staff Assistant; United States Senate Committee on Armed Services. 1996-1999; Administrative duties, including staffing committee hearings, on site inspections of installations, prepare and mark up Annual Defense Authorization Bill;

(c) Staff Assistant; United States Senator Paul D. Coverdall (Ga.), deceased. 1995-96; Administrative duties, including assistant to Senator's legal counsel, constituent communications.

28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.

Yes. I am on the Board of Directors at the Bank of Walterboro. We set the policy for the Bank and its branches. Also approve or disapprove certain

types of loans. I also serve on the Audit Committee of the Bank. The term is 3 years, and I was reappointed in April 2010 for another 3 year term.

29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None

42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) S.C. Bar; House of Delegates, Delegate for 14<sup>th</sup> Circuit, 2009- present
  - (b) Colleton County Bar
  - (c) American Bar
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Lions Club of Walterboro;
  - (b) Dogwood Hills Country Club, past member of Board of Directors;
  - (c) Colleton County Historical Society, past member of Board of Directors;
  - (d) Colleton County Arts Council;
  - (e) Coastal Conservation Association, ACE Basin Chapter;
  - (f) Ducks Unlimited;
  - (g) Sandlapper Society;
  - (h) Walterboro Elks Lodge.
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.  
Material included in previous questions
50. References:
- (a) Roger Crook  
President, Bank of Walterboro  
Post Office Box 1707  
Walterboro, S.C. 29488

- 843-549-2256
- (b) Marvin C. Jones, Esquire  
Jasper County Attorney  
Post Office Box 420  
Ridgeland, S.C. 29936  
843-726-5406
  - (c) Kirby Shealy, III, Esquire  
Baker Ravel and Bender  
Post Office Box 8057  
Columbia, S.C. 29202  
803-799-9091
  - (d) Otis Rhodes  
Chief of Police, City of Walterboro  
242 Hampton Street  
Walterboro, S.C. 29488  
843-549-1811
  - (e) Sheriff George A. Malone  
Sheriff, Colleton County  
112 S. Miller Street  
Walterboro, S.C. 29288  
834-549-2211

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: J Reaves McLeod

Date: September 9, 2010

## McLEOD, FRASER & CONE

W. J. McLEOD, JR.  
(1906-1994)

DONALD H. FRASER  
PEDEN B. McLEOD  
GEORGE W. CONE  
-----

THOMAS I. HOWARD  
J. REAVES McLEOD  
ASHLEY H. AMUNDSON

ATTORNEYS AT LAW  
111 E. WASHINGTON ST.  
P.O. DRAWER 230  
WALTERBORO, S.C. 29488-0003

TELEPHONE  
(843)549-2516  
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TELECOPIER  
(843)549-2306  
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September 15, 2010

Jane O. Shuler, Esquire  
Chief Counsel  
Judicial Merit Selection Commission  
Post Office Box 142  
Columbia, SC 29292

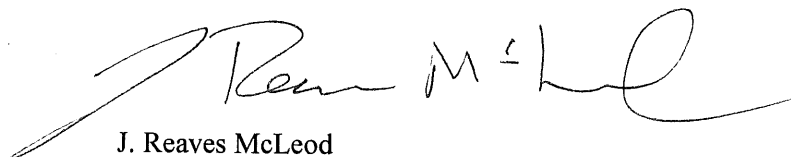
Re: Circuit Court At-Large Judicial Seat #9  
Amending Answer to Personal Data Questionnaire, Question #46  
Sworn Statement, Question #31

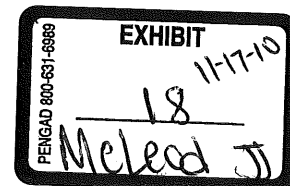
Dear Ms. Shuler:

After sending my judicial package in to the Commission, I realized and subsequently was informed by the Commission, that I sent letters of introduction to the Judicial Merit Selection Commission members who are members of the General Assembly. This was done inadvertently while as I was sending out introduction letters to the General Assembly as a whole. I hereby amend my answer to question #46 to answer "yes", in my Personal Data Questionnaire. I further amend my answer to my sworn statement, question #31, to list the members of the Judicial Merit Selection Commission, who are member of the General Assembly as a whole. Those members are Representatives Delleney, Clemmons, and Mack, and Senators McConnell, Knotts, and Nicholson. I have contacted them via letter of introduction that was sent out to all members of the General Assembly and such letter was inadvertently sent to these members of the Commission.

I regret this oversight on my part and do apologize to the Commission and the entire process. This was done by mistake and was not intended to gain any undue influence. If you have any questions or concerns, please feel free to contact me.

Very truly yours  
MCLEOD, FRASER & CONE

  
J. Reaves McLeod



<p style="text-align: center;">JUDICIAL MERIT SELECTION COMMISSION Sworn Statement to be included in Transcript of Public Hearings</p>
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Circuit Court  
(New Candidate)

Full Name: John Reaves McLeod  
Business Address: 111 E. Washington Street  
Post Office Box 230  
Walterboro, SC 29488  
Business Telephone: 843-549-2516

1. Why do you want to serve as a Circuit Court judge?

I want to be able to serve the people of South Carolina utilizing my education, life experience and willingness in a manner that I believe that would allow me to contribute to the State and the citizens of South Carolina in the legal system and in the dispensing of justice. I come from a family that prides itself on the desire to serve the public and I have that same desire. I truly believe the legal field is one of the noblest fields a person can enter. Serving as a Circuit Court Judge allows a person to continue to interact with the public and thus place a face on the legal system. As such, a Circuit Court Judge helps instill and maintain confidence in a judicial system that is constantly under attack from all sides of today's world. I believe I can run an efficient and fair courtroom that continues to maintain the public's confidence in the legal system and helps rebuild the confidence that parts of the public have lost. Without such confidence and trust in the legal system, the public would be left no way to resolve disputes in a civilized non-violent environment.

2. Do you plan to serve your full term if elected? Yes

3. Do you have any plans to return to private practice one day? No

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

As a sitting magistrate, my philosophy on *ex parte* communications is steadfast. *Ex parte* communications should not be held. All parties should be involved in any communications that concern a pending case. I can think of no circumstances in which *ex parte* communications would be acceptable.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?



The appearance of impartiality is the most important issue in legal matters. That being the case, the halls of justice cannot constantly be shut down because of past relationships with former associates or former law partners. The same can be said for lawyer-legislators. If a judge were to withdraw from a case because a lawyer-legislator were presenting or defending a case, the lawyer-legislator would never be able to have matters heard in court. That is not fair to the lawyer-legislator, their client, or justice. I cannot see anytime where the recusal, based on the lawyer's status as a legislator, could be of benefit to the ends of justice and I would not, for that reason, solely, withdraw from a case.

As to former associates, or law partners, the question is a little less clear. Again, impartiality is the key. Within a few years of being placed on the bench, there maybe the *appearance* of impartiality to the opposing counsel and to their client or clients. If the case was in the judge's firm prior to the sitting judge becoming a judge, it would most certainly call for the judge to withdraw from the case. If the case was not in the firm's files, then one could see that the judge would not have to withdraw and could hear the case.

If the sitting judge has been on the bench for an appropriate amount of time, I believe that elapsed time period to be sufficient to allow former associates or law partners to practice in front of a sitting judge. Otherwise, it becomes unfair to the former associates or law partners, essentially not allowing them to practice their trade because they were at one point associated with a sitting judge.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would give a great deal of deference to the party requesting a recusal. It is imperative that all parties, not only feel as if the process is fair, but also know that the process is fair. If there is evidence that the asking parties submit that shows that I could not be fair and impartial, I would grant such a motion.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would advise all the parties involved of the breath and scope of the financial or social involvement of my spouse or close relative and recuse myself.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Any gifts or social hospitality that would be given to me in an effort to influence or gain favor with me would not be accepted. As a public figure, one is invited to many events and such events are ok as long as they do not violate any of the Judicial Cannons and do not

attempt to pedal influence.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

The rules of professional responsibility make it an obligation to report such misconduct if the conduct harms the legal profession or the reputation of the legal profession. It is not the duty of a circuit court judge to decide what misconduct to report and what misconduct not to report. Any misconduct should be reported to the proper commission or court.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

The Board of Directors of the Bank of Walterboro. South Carolina Bar, House of Delegates for the 14<sup>th</sup> Circuit.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

If allowed, I would envision remaining on the Board of Directors for the Bank of Walterboro. If I were to request and receive a Judicial Advisor Opinion indicating that such position was not allowed, I would resign from the Board.

13. If elected, how would you handle the drafting of orders?

On more complex issues, I believe it is important to have all parties submit proposed orders detailing what they believe the law requires. Using those proposed orders and the hearing on the record; I would then be able to address the issue in a well-prepared and versed manner. One proposed order may cover the issue entirely and thus that one may suffice. Otherwise, I would consolidate the parties' arguments, or if neither is sufficient, then draft an order myself. Once the Order is prepared it will be filed. On matters that are relatively straight forward or are orders that are consented to, and do not need to be taken under advisement, I would have the prevailing party prepare the order. Upon preparing the order, the prevailing party would then forward a copy to the opposing counsel to review. If there are no objections to the proposed order, then the proposed order would be forwarded to me to sign and return for filing.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would use the technology available to me and the other resources available to ensure that my staff and I meet all deadlines.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I do not feel that it is a Judge's duty to set or promote public policy. It is the Judge's duty to rule on matters before him in accordance with the law. It is also the Judge's duty to do justice for all parties involved, which is the Judge's most important task.

16. Canon 4 allows a judge to engage in activities to improve the law, legal

system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

It is most important to participate in activities that help improve the law, legal system, and the administration of justice. I believe it is best to reach those new to the profession (young attorneys, law school students, and paralegals and paralegal students) to help them understand what they will be encountering. It is difficult for those new to the profession to know how to handle matters without first coming into contact with them. Activities that promote hands-on experience are essential to help people understand what is involved in the legal field.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

As a person who is not married, I feel that I would be able to travel the circuits completely unencumbered and would have little, if any, strain in upholding my duties. I believe that I am at an advantage for the at-large seat that is open. There would be no strain on my other relationships, and I would look forward to the circuit travel as an opportunity to meet new friends and re-acquaint with old friends.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

- a. Repeat offenders:

Justice requires that a judge have no preconceived concepts on how to sentence defendants. Previous offenders, if found guilty, will receive sentences appropriate to their conduct and the applicable law.

- b. Juveniles (that have been waived to the circuit court):

Justice requires that a judge have no preconceived concepts on how to sentence defendants. Juveniles, if found guilty, will receive sentences appropriate to their conduct and the applicable law.

- c. White collar criminals:

Justice requires that a judge have no preconceived concepts on how to sentence defendants. White Collar Criminals, if found guilty, will receive sentences appropriate to their conduct and the applicable law.

- d. Defendants with a socially and/or economically disadvantaged background:

Justice requires that a judge have no preconceived concepts on how to sentence defendants. Defendants with a socially and/or economically disadvantaged background, if found guilty, will receive sentences appropriate to their conduct and the applicable law.

- e. Elderly defendants or those with some infirmity:

Justice requires that a judge have no preconceived concepts on how to sentence defendants. Elderly defendants or those with some

infirmity, if found guilty, will receive sentences appropriate to their conduct and the applicable law.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

Shareholder and Director of Bank of Walterboro. If any business of the Bank of Walterboro's were to come in front of me, I would recuse myself and would have a standing recusal in all Bank of Walterboro matters.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

I do not feel that there would be an issue regarding a *de minimis* financial interest that would require me to not to hear the case, but I would make sure such *de minimis* interest is disclosed to all parties involved. Then, if any party requests a recusal, I would hear their arguments as to why I should not hear the case.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes

23. What do you feel is the appropriate demeanor for a judge?

A judge must have a cool level-headed demeanor. The judge must be able show the entire court and parties that he or she is not partial to one party or another. The judge must be patient and calm, but must be firm and demanding enough to maintain control of the courtroom and all those in the courtroom in order to dispense justice accordingly.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

As a public official, a Judge must maintain the above seven days a week, twenty-four hours a day, especially while the Judge is in the public eye

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

Anger is a powerful emotion and one that can rear its head at many different times. There are many people who appear in court, whose objective is to push the buttons of the Judge, i.e., get the Judge angry. As with any emotion, anger is appropriate at times. The time where anger is appropriate in the courtroom is far and few between. One would hope that the public, defendants, attorneys, or pro se litigants would always conduct themselves in the appropriate manner as required in the Courthouse. If that were the case, then anger would never be appropriate.

26. How much money have you spent on your campaign? If it is over

- \$100, has that amount been reported to the House and Senate Ethics Committees? None
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No
28. Have you sought or received the pledge of any legislator prior to this date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
31. Have you contacted any members of the Judicial Merit Selection Commission?  
Yes, Jane Shuler, Pat Dennis, Laurie Traywick
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/John Reaves McLeod\_\_\_\_\_

Notary Public for S.C.

Sworn to before me this 9<sup>th</sup> day of September 2010

My Commission Expires: 6-19-2016\_\_\_\_\_

Christopher J. Murphy  
Maité Murphy  
Michael H. Murphy, III



(843) 832-1120  
(888) 833-1120 (Toll Free)  
(843) 832-5969 (Fax)

136 West Richardson Avenue  
Summerville, South Carolina 29483  
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October 26, 2010

Judicial Merit Selection Commission  
Jane O. Shuler, Chief Counsel  
Post Office Box 142  
Columbia, South Carolina 29202


**RE: Circuit Court, At Large, Seat 9**

Dear Ms. Shuler:

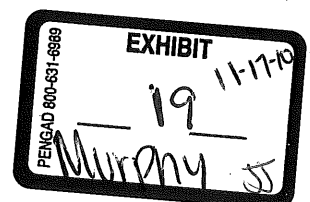
Pursuant to our meeting last week, please find the enclosed addendum in regards to question number 10 on the Personal Data Questionnaire regarding continuing legal or judicial education. I have also included for your review a copy of the documentation pertaining to question number 3 on the Personal Data Questionnaire Addendum.

Please feel free to contact me should you require any further information. Thank you for your time and attention to this matter.

Sincerely,

  
Maité Murphy

MM/sz



ADDENDUM TO QUESTION # 10  
JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Conference/CLE Name	Date(s)
Mandatory Magistrate Training	10/30/09
Chief/Associate Magistrate Mandatory Meeting	06/23/09
*Magistrate Mandatory Training (to be completed prior to screening)	11/05/10

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-Large, Seat 9

1. NAME: Maite Murphy  
BUSINESS ADDRESS: 136 West Richardson Avenue  
Summerville, S.C. 29483  
E-MAIL ADDRESS: maite@murphylawfirmllc.com  
TELEPHONE NUMBER: (office): (843) 832-1120
2. Date of Birth: 1969  
Place of Birth: Denver, CO
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on August 6, 1994, to Christopher John Murphy.  
Never divorced; two children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
I attended Texas State University- (Formerly named Southwest Texas State University). I began college there in the fall of 1987 and graduated with a B.A. degree in December of 1991. I attended law school at Mississippi College School of Law from the fall of 1992 and obtained my J.D. degree in May of 1995.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
I was admitted to practice law in 1995 in South Carolina. South Carolina is the only state where I have practiced law and taken the bar exam.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
I was a member of Delta Zeta sorority in college from 1988-91. I was a member of the Environmental Law Association in Law School from 1992-95.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Revised Lawyers Oath	09/27/04;
(b) Annual Solicitors' Conference	09/26/04;



- (c) Avoiding Real Estate Malpractice Hazards 11/17/05;
  - (d) Attorney ECF Training 07/21/05;
  - (e) Criminal Law Update 01/21/05;
  - (f) Criminal Law Update 01/26/07;
  - (g) S.C. Civil Procedure Update 02/16/07;
  - (h) Sidebar Live 02/22/08;
  - (i) Criminal Law Update 01/25/08;
  - (j) Alternative Dispute Resolution 01/22/09;
  - (k) 7th Annual Civil Law Update, The Practice of Mediation 01/23/09;
  - (l) I'm a Construction Lawyer 01/23/09;
  - (m) Environmental Permits? No, Thanks 01/23/09;
  - (n) Growing Green: The Direction of S.C. Environmental Law 01/23/09;
  - (o) Real Estate Practice 01/24/09;
  - (p) Breakfast Ethics Seminar 01/25/09;
  - (q) Annual Chief Magistrate Meeting 06/23/09;
  - (r) Magistrates Orientation Program 07/20/09- 07/31/09.
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I taught business law courses at Midlands Technical College in Columbia in 1996 and 1997;
  - (b) I taught the Ethical Issues portion of the Children's Law Center CLE in Orangeburg entitled Training for Attorneys Appointed in Abuse and Neglect Cases on April 30, 2010;
  - (c) I taught Courtroom Procedure Training at the Dorchester County Sheriff's Department January-May 2010.
12. List all published books and articles you have written and give citations and the dates of publication for each. Not applicable
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- I was admitted to practice law in South Carolina on November 13, 1995 and admitted to practice in the United States District Court, District of South Carolina on April 19, 1996.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- I began practicing law in Columbia as a partner with the law firm of Holler, Dennis, Corbett & Garner. I began with said practice in January of 1996 and my practice was a general practice. My practice at that time was primarily focused on civil litigation in the Courts of Common Pleas and General Sessions. I also handled domestic matters in Family Court and cases in Magistrate and Municipal Courts. My husband and I then moved from Richland

County to Dorchester County in March of 1998 and I was employed as an associate for Richard Wern in North Charleston where I handled civil litigation matters in State and Federal Court until I obtained a position at the First Circuit Solicitor's Office in October 1998.

During my tenure at the Solicitor's office I rose to the rank of Chief Deputy Solicitor for the First Judicial Circuit. I was second in command to the Solicitor for the entire circuit which is comprised of Calhoun, Dorchester and Orangeburg Counties. I operated under a grant dedicated to prosecuting crimes of violence against women. I was in charge of prosecuting all violent crimes against women and children. I successfully tried cases of murder, kidnapping, arson, armed robbery, burglary, criminal sexual conduct (all degrees), lewd act upon a child, unlawful conduct towards a child, felony child abuse, sexual exploitation of minors, assault and battery with intent to kill, assault and battery of a high and aggravated nature, drug and alcohol offenses and criminal domestic violence. I also assisted Solicitor Walter Bailey with the trials of four death penalty cases.

I left the Solicitor's Office in 2005 to join the practice of Quattlebaum & Murphy, L.L.P. as a partner. The firm as of January 2009 is the Murphy Law Firm, L.L.C. Our firm is a general practice and I specialize in criminal and civil litigation matters in all courts and also handle domestic litigation. On April 30, 2009 I was confirmed by the Senate as a Magistrate Court Judge for Dorchester County. Chief Justice Jean Hoefer Toal appointed me as Associate Chief Magistrate for Dorchester County on June 17, 2009. I served in that capacity until I was appointed as Chief Magistrate by Chief Justice Toal on July 1, 2010. I serve as Chief Magistrate part-time and continue my general practice as well.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

My experience in the Court of General Sessions is extensive as described in question number 14. I have successfully tried many

criminal cases involving complex evidentiary issues. I have handled these matters from the beginning stages of having a bond set through trial. My experience as Chief Deputy Solicitor also gave me valuable experience in managing a docket which I believe is very important experience for a Circuit Court Judge to have considering the high volume of cases currently pending that need to be disposed of in an efficient and fair manner.

My ability to handle civil matters as well is clearly illustrated by my appointment to serve as the Special Referee in the Exxon class action suit which was filed in Orangeburg County Case Number 94-CP-38-118. As Special Referee I was responsible for reviewing all claims submitted and I was responsible for holding each claimant to the burden of establishing, by a preponderance of the evidence, that each claimant was a member of the class defined by the settlement agreement and that their property had been damaged by petroleum contamination attributable to ExxonMobil's underground storage tanks or service station operations. I was also responsible for holding ExxonMobil to its burden of establishing its affirmative defenses by a preponderance of the evidence. It was then my duty to make the findings of facts and conclusions of law as to each of the defenses raised and as to each of the claim submissions and issue a Final Report to the Court. These duties included the review of expert opinions and the necessary elements of causation and proof of each claim. The experience of serving as the Special Referee in a case of this magnitude proves my ability to handle complex civil litigation matters.

Private practice has further allowed me to gain valuable experience in handling effectively both criminal and civil matters. The civil litigation that I have been involved in while in private practice has involved work for both plaintiffs and defendants. The types of civil cases that I have had the opportunity to work on have involved personal injury cases for plaintiffs, contract conflicts and the representation of parties involved in the dissolutions of partnerships and corporate entities.

My duties as Chief Magistrate include not only the administrative functions of the day to day operation of the Court, but also hearing criminal and civil trials. I am confident that my work experience in private practice, the Solicitor's office and the Magistrate's Court has prepared me well to perform the duties of the Circuit Court impartially, fairly and competently.

15. What is your rating in Martindale-Hubbell?

I am not subscribed to be listed in Martindale-Hubbell. I have not subscribed to this service in the past as it has been described by some as a form of advertising which I did not feel was necessary for the success of our firm.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?
- (a) federal: 2%;
  - (b) state: 98%.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 40%;
  - (b) criminal: 40%;
  - (c) domestic: 20%.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: 30%;
  - (b) non-jury: 70%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? I most often serve as sole counsel.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) One of my most significant litigated matters that I personally handled was the murder case of State v. Robinson in Dorchester County. This was a significant trial for several reasons. It was a significant accomplishment to obtain a just verdict of guilty due to the fact that the case was based purely on circumstantial evidence. The victim in the case was a young mother who was brutally murdered with a tire iron tool in her home. Her body was then taken to a neighboring county and dumped in the woods and her home was set on fire. I worked closely with law enforcement to piece together the evidence necessary to try the murder case. Although the murder weapon was never found, we were able to establish that the tire iron tool from the victim's car was missing. Through manufacturing records of the car companies I was able to obtain a tire iron tool from the car manufacturer which would have been like the one missing from the victim's car. I was then able to match the skull fracture patterns to the missing tire iron tool shape through expert forensic testimony. I was able to establish the estimated time of death through expert testimony from analyzed larvae and the related growth stages of the larvae from the body at the autopsy. This testimony assisted in placing the defendant at the time and place of the murder. I worked with SLED arson and blood spatter experts to establish the manner in which she was murdered in the home and how the home was then set on fire in an attempt to destroy the evidence of the murder. There were many evidentiary and procedural issues in this

trial which had to be handled effectively to ensure that the victim's killer was properly brought to justice.

- (b) Another significant trial that I handled was felony child abuse trial involving a five year old developmentally delayed victim. The child was sent by helicopter to the Medical University of South Carolina in an unresponsive state with a significant bruise on his chest and another bruise on the side of his head behind his ear. The defendant was the child's father and he had called an ambulance and stated that the child had fallen in the bath tub. The child barely survived the brutal attack and upon receiving the case it was obvious that it would be a difficult case to get to a jury due to the fact that the child was only five years old, non-communicative and unable to testify as to the cause of his injuries. Further, his mother was not cooperative and protective of the defendant. I prosecuted her as well for failing to protect her child. I began preparing for this case by obtaining a complete medical history of the child and discovered by review of numerous scattered medical records that the child had been blinded in his right eye as an infant, and had suffered two broken femurs before the attack in question. I was able to obtain experts to review the previous injuries to establish a pattern of abuse and neglect by the defendants. It was determined that the eye injury was to a reasonable degree of medical certainty caused by violent shaking of the child as an infant and the two femoral breaks were not accidental in nature but were caused as a result of physical abuse due to the pattern of the breaks in question. Both parents of the child in question were convicted and the child was taken in by a relative and began to thrive and grow once being placed outside of an abusive environment.
- (c) I successfully prosecuted another significant felony child abuse trial in which a three year old child's hand was submerged in scalding hot water as punishment for sucking his thumb. The child received third degree burns as a result of his injuries and was left in pain in his home without medical treatment until the following day when he was discovered by his aunt who then took him to the hospital. Unfortunately, by the time he was taken for medical treatment the severity of the burns had caused his fingers to become webbed together. The child's hand was at risk of having to be amputated but was saved. He had to undergo and will continue to have to undergo numerous surgeries throughout his life as a result of the burns inflicted on him. Due to his age and horrific justifiable fear of the defendant I had to prosecute the case without the testimony of the child and had to rely on the only other witness that placed the defendant in the bathroom with the victim. My corroborating witness was only seven years of age but was competent to testify and I was able to obtain and introduce at

trial sufficient other medical and physical evidence which proved that the defendant was the one that inflicted the injuries on the child.

(d) I personally handled the trial of State v. Inman which resulted in a life sentence for the defendant in question. The defendant in this case was charged with kidnapping three young children at gunpoint and holding them hostage in his trailer. He locked two of the male victims in one room while he proceeded to sexually assault the young female in the living room of his home. The defendant had a prior record which included a violent, most serious offense and therefore I served him with notice to seek a life sentence at the trial of his case. I was able to successfully try the case with all three children being competent to testify as well as being able to successfully present the testimony of law enforcement and other forensic experts to prove his guilt beyond a reasonable doubt.

(e) I tried a case that led to a 60 year sentence for a defendant that was convicted of sexually assaulting his own teenage daughter at knife point and he was also convicted of attempting to intimidate the potential witnesses that were subpoenaed to testify at the trial of his case in the trial of State v. Brown. This was a significant case as not only did I have to prove the criminal sexual conduct had occurred, but I also had to deal with witnesses that had been physically threatened and did not want to testify for fear of their safety. Procedurally, the rape case was difficult in that the assault was not immediately reported, thereby not giving us the opportunity of having physical forensic evidence to link the defendant to the crime. As is the case with many trials of criminal sexual conduct it is necessary to know how appropriate expert testimony is presented to explain the lack of forensic evidence and one must also be able to understand procedurally how to present appropriate psychological testimony which can corroborate symptoms consistent with trauma caused by sexual and or physical abuse.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter). I have not done appellate work.

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. I have not done appellate work.

22. Have you ever held judicial office?

I currently serve as Chief Magistrate for Dorchester County. I was appointed as a Magistrate by the Governor, with the advice and consent of the Senate. My appointment was confirmed on April 30, 2009. As a Magistrate Court Judge I have jurisdiction to hear civil actions within the County where the amount in controversy does not exceed \$7,500.00. This includes actions for breach or contract, damages for injury to rights pertaining to the person or

personal or real property as well as all landlord and tenant matters, and actions to recover the possession of personal property whose stated value does not exceed \$7,500.00. I have limited jurisdiction over mechanics' liens, agricultural liens, repair or storage liens and animal owner's liens.

I also have jurisdiction in the county to handle criminal and traffic offenses which are subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not to exceed thirty days or both. I can also hear cases transferred from General Sessions Court where the penalty does not exceed one year imprisonment or a fine of \$5,000.00, or both. These cases are transferred to the Magistrates Court upon petition from the Solicitor and with the consent of the defendant. I am also responsible for setting bail, conducting preliminary hearings and issuing arrest and search warrants.

As Chief Magistrate I work hard to ensure that both of our Magistrate's Courts within the county operate effectively. We establish procedures to ensure compliance with Orders issued by the Chief Justice and the rules set forth by the Office of Court Administration.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

Magistrate courts are not courts of record. Therefore, the proceedings are summary in nature, and orders and opinions are not reported or published.

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?

I have not held a public office.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.

I am a partner in the Murphy Law Firm which is located in Dorchester County. Our firm has three partners and four support staff employees. I am responsible for handling a variety of litigation cases in Common Pleas, General Sessions, Family and Federal Courts

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

I was a candidate for Circuit Court Judge of the First Judicial Circuit in 2008. I was found qualified to serve, but was not nominated to the office. I was a candidate for Circuit Court Judge, At Large Seat 8 position in 2009. I was found qualified to serve and nominated by the Judicial Merit Selection Commission but was not elected to the position by the Legislature.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public

office? If so, give details, including a description of your occupation, business, or profession, the dates of your employment, and the name of your business or employer. No

28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.

I am a partner in my law firm, Murphy Law Firm, LLC. Our firm was previously Quattlebuam & Murphy L.L.P. until January of 2009. I have served as a partner in both firms since January of 2005.

29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.

The only business relationships that would constitute a conflict of interest would be the business relationship with my law partners that I have had. I would recuse myself from hearing any matters in which they would be a party or have an interest in.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?

No

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

I was involved in a probate action in California which was filed as a petition to determine the ownership of a leasehold interest in a parcel of property previously owned by my grandfather, Dr. Arman F. Frederickson, in the British Virgin Islands. My grandfather owned the leasehold interest in said property and transferred it to my husband and me approximately three years prior to his death in 2008. Subsequent to his death, his estate filed a petition to rescind said transfer despite clear evidence of the validity of the transfer to include: an original handwritten letter from him asking us to accept the leasehold interest as a gift; an affidavit which he executed which was filed with the government of the British Virgin Islands; notarized lease documents which he executed in California; and, various witnesses to include legal counsel in the British Virgin Islands that were witnesses to his competency and desire to transfer the property as a gift to me and my husband. This matter



was resolved through mediation in November of 2009. The agreement was subsequently approved by the court and there were no admissions or findings of fact of any misconduct against my husband or me.

I was sued in a professional capacity by an inmate by the name of Denny Bates. I prosecuted Mr. Bates for criminal sexual conduct with a minor in the first degree. Mr. Bates entered a plea of guilty before the Honorable Luke N. Brown, Jr. and received a fifteen year sentence. Mr. Bates filed suit naming me as a Defendant, along with the Solicitor, Walter Bailey, Judge Brown and, the cook at the Department of Corrections. The allegation in the suit was that the cook subjected Mr. Bates to cruel and unusual punishment for the food that was presented to Mr. Bates during his incarceration. The remainder of the suit alleged a conspiracy in the prosecution and sentence handed down by Judge Brown. The allegation stated that the conspiracy existed to prosecute him due to the fact that the victim in the case's last name was Bailey and that there was a witness in the case whose last name was Brown. There was no relation to the case or witnesses with Solicitor Bailey or Judge Brown. Solicitor Bailey turned the Complaint over to the Budget Control Board to defend and the case was subsequently dismissed.

- 36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
- 37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
- 38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
- 39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I am not aware of any such allegations against me for violation of said provisions.

- 40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I am not aware of any such allegations against me for violation of said provisions.

41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. I have not had any expenditure's to date.

42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.

No contributions have been made by me or on my behalf to members of the General Assembly.

43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened?

I have fully complied with Section 2019-70 (c) and JMSC Rule 24 and have not sought pledges of support either directly or indirectly from any member of the General Assembly.

44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No

45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No

46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No

47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.

(a) South Carolina Bar Association – 1995 to present;

(b) South Carolina Women's Bar Association – 1995 to present;

(c) Dorchester County Bar Association

Immediate Past President- 2006-May 2010

Vice- President 2005

Treasurer 2003-04;

(d) Member of the Richland County Bar-1996-98.

48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

(a) YMCA- Board of Directors-2006 to present. I serve on the Executive and Finance Committees and was the former Chair of Programs Committee;

(b) Summerville Rotary Club- 2005 to present. Programs Chair 2007-09;

- (c) Summerville Meals on Wheels- Board of Directors 2007-08;
  - (d) Summerville Republican Women's Club- Past President and Vice-President. Resigned during my past candidacy for the Circuit Court and upon being appointed Magistrate Court Judge;
  - (e) Dorchester Children's Center Development Committee.
49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
50. References:
- (a) Scott M. Garcia, Vice President/ Commercial Lender  
Tidelands Bank  
875 Lowcountry Blvd.  
Mt. Pleasant, S.C. 29464  
(843) 388-8433
  - (b) Dennis P. Pieper  
Town Administrator  
200 S. Main Street  
Summerville, S.C. 29483  
(843) 871-6000
  - (c) Edward B. Carter  
85 Paradise Point Road  
Summerville, S.C. 29485  
(843)875-1487
  - (d) Bruce E. Owens  
Chief of Police  
300 West Second North Street  
Summerville, S.C. 29483  
(843)851-4100
  - (e) Dan Dennis  
Dennis Corporation  
1800 Huger Street  
Columbia, S.C. 29201  
(803)252-0991

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: Maite Murphy

Date: September 9, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Maité D. Murphy  
Business Address: 136 W. Richardson Avenue  
Summerville, SC 29483  
Business Telephone: (843) 832-1120

1. Why do you want to serve as a Circuit Court judge?

I believe that I can have a positive impact on our legal system by serving as a Circuit Court Judge. My career to date has afforded me the opportunity to have extensive trial experience which has placed me in a unique position to learn not only from other lawyers, but from judges, juries and victims of crimes or circumstances. I think that it is extremely important that every person that walks out of a courtroom, whether they like the outcome of the case or not, feel that the court was diligent, efficient and fair. I believe I can bring those qualities to the circuit court bench.

2. Do you plan to serve your full term if elected? Yes.

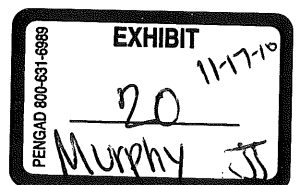
3. Do you have any plans to return to private practice one day?

If appointed to the circuit court I would plan to serve in the judiciary for the remainder of my career, barring any unforeseen circumstances.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

*Ex parte* communications are improper and should not be allowed except in circumstances allowed and outlined in the Rules Governing the Judiciary. These exceptions include circumstances for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits provided that: the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication; and, that the judge makes provision promptly to notify all other parties of the substance of the communication and allows the other party an opportunity to respond. A judge may also obtain the advice of a disinterested expert on the law if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. A judge may also consult with court personnel that aid the judge in carrying out his or her



adjudicative responsibilities or with other judges. A judge may also meet separately with the parties and their counsel in an effort to mediate or settle matters before the court if all parties consent to said meeting. Any other ex parte communications may happen only if expressly authorized by law.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I would disqualify myself in any proceeding where my impartiality might reasonably be questioned. I would recuse myself if I had any personal biases or knowledge regarding the evidentiary facts of the proceeding or had an interest in the proceeding. Both of my current law partners are within the third degree of relationship and I would therefore not hear any matters that they had pending before the court. In regards to former associates or lawyer-legislators, I would disclose the relationship on the record for the parties to consider relevant to the issue of disqualification and allow the parties to consider outside of my presence whether or not they would waive disqualification. Said agreement would need to be fully placed on the record. The fact that a person is a lawyer– legislator would not automatically require recusal. If that were the case, no member of the legislature would be able to practice law. All precautions should be taken to ensure that there is not a true conflict of interest or an appearance of bias or prejudice for or against either party. Parties should be satisfied that the court is fair and impartial.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

If there was an expression of bias or prejudice that was perceived by the parties, even though I believed I could be fair and impartial, I would give deference to a motion for my recusal. This decision would be based upon the fact that said expression of bias could potentially cast a reasonable doubt on my capacity to act impartially in the proceeding.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

If there is an appearance of impropriety because of financial or social involvement of my spouse or close relative, then that appearance applies to me as well. I would apply the same standard as if that appearance was due to my involvement in a situation.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Ordinary social hospitality is acceptable, but a judge must not accept gifts from lawyers or their firms if they are likely to come before

that judge. Such gifts would raise an appearance of impropriety. Gifts from relatives or friends are acceptable so long as the gift is commensurate with the occasion and the relationship.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would report such misconduct to the appropriate authority.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

I resigned all such positions upon my appointment as a Magistrate Court judge.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

That would depend on the type of order. The court has a duty to take reasonable measures for prompt disposition of matters. There are circumstances in which it would be permissible for the court to request that a party submit proposed findings of fact and conclusions of law, so long as the other party is aware of the request and afforded an opportunity to respond to the proposed order. There are many circumstances, such as bond reduction hearings, where parties have form orders that upon review by both parties, they can submit to the court for approval. Should the matter be something of a complex nature, I would draft the order myself.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would ensure effective communication with my staff so that they understood what was expected and required of their service.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

Judicial activism is improper. The role of the judiciary is to at all times comply with and apply the applicable law, not to make law, based upon his or her own personal beliefs or agendas.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would participate in efforts through the bar association or other organizations which are dedicated to the improvement of the law. I believe in being an active participant and giving time to my community.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

I do not feel as serving as a judge would strain my personal relationships with my family. I currently serve as a part time Judge and continue to be a partner in a busy law firm. I have been able to manage both successfully. I am fortunate to be able to accomplish this by

- having full support of my family in this endeavor.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
- a. Repeat offenders:
- I believe that repeat offenders need to be closely evaluated and each type of offender should be considered on a case by case basis. Violent repeat offenders should receive harsher penalties as they pose a threat to the safety of our community. Crimes which have been classified as violent, most serious offenses are just that. Those that commit said crimes should be not be treated lightly. There are circumstances where a judge could consider alternative sentencing options for different types of repeat offenders. For example, if you have a soccer mom that got addicted to pain killers after foot surgery and had a relapse, the court should consider treatment options that may be available to rehabilitate. The court should always be mindful that sentencing serves the purpose of punishment as well as a deterrent to other offenders.
- b. Juveniles (that have been waived to the circuit court):
- For a juvenile to be waived to circuit court they must have been charged with a crime which allows such waiver statutorily. Said crimes are not petty offenses, but serious in nature and should be treated as such. Although the court should consider any mitigating circumstances presented at sentencing, age alone should not be the determining factor of the type of sentence imposed.
- c. White collar criminals:
- White collar criminals can have an equally devastating effect on a family as any other type of criminal. The court should consider victim impact testimony and potential restitution issues in sentencing as well as appropriate punishment and deterrent factors for the community.
- d. Defendants with a socially and/or economically disadvantaged background:
- It is very common for Defendants that come before the court to come from socially and/or economically disadvantaged backgrounds. Many such defendants may be high school drop outs and as such, do not have significant employment opportunities to be able to support their families. This situation is widely used as an excuse to deal drugs for profit or commit crimes involving theft. The court has the option to impose requirements as a part of a sentence that the offenders get a GED for example. This can be done whether the sentence is one that calls for incarceration or probation. The court must be cognizant of all mitigating and aggravating circumstances in each case when fashioning an appropriate sentence.
- e. Elderly defendants or those with some infirmity:
- An elderly or infirm defendant that sexually abuses a child or

commits an armed robbery poses the same danger to the community as a younger or healthy defendant and should be treated accordingly. The court should consider the type of infirmity involved and how that affects not only the department of corrections ability to house and treat such infirmity, but also how said infirmity would limit the defendants ability to be a further danger to the community and what sentencing and treatment options are available that would be fair and just.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Yes, a *de minimis* interest denotes an insignificant interest that could not raise a reasonable question as to a judge's impartiality.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

A judge should always be courteous, respectful, patient and dignified to all litigants, jurors, lawyers, and anyone with whom the judge deals with in their official capacity.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

Yes. Judges at all times should act in a manner that promotes the public confidence in the integrity and impartiality of the judiciary.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

A judge must not express emotions, to include anger, in all proceedings. The court shall require order and decorum at all times. The court is charged with remaining impartial and to not manifest any form of conduct or reaction to include body language that would suggest an appearance of judicial bias.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

I have not expended any money on my campaign.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? No.

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.



30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Maité D. Murphy

Sworn to before me this 12<sup>th</sup> day of September, 2010. \_\_\_\_\_

Notary Public for S.C.

My Commission Expires: 1-24-2011 \_\_\_\_\_

Catherine B. Templeton  
34 Saturday Road  
Mt. Pleasant, SC 29464

October 27, 2010

Via U.S. and Electronic Mail (bonnieanzelmo@schouse.gov)

Mrs. Bonnie G. Anzelmo  
Assistant Chief Counsel  
House Judiciary Committee  
1105 Pendleton Street  
Room 512, Blatt Building  
Columbia, SC 29201

Re: Catherine B. Templeton

Dear Bonnie:

Pursuant to your request, please substitute the reference letter of United States Supreme Court Associate Justice (Ret.) Sandra Day O'Connor for the reference letter of A. Camden Lewis, Esquire requested by Personal Data Questionnaire Number 50. The original letter from Justice O'Connor will be sent directly to the Judicial Merit Selection Commission, care of Mrs. Jane O. Shuler, Chief Counsel, South Carolina Senate Judiciary Committee, Judicial Merit Selection Commission, 104 Gressette Building, 1101 Pendleton Street, Columbia, SC, 29201.

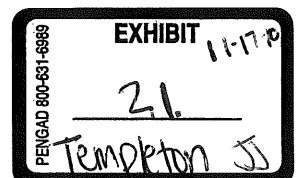
Sincerely,



Catherine B. Templeton

CBT/atj

cc: Linda Neary, via email only ([lindahneary@supremecourt.gov](mailto:lindahneary@supremecourt.gov))  
Jane O. Shuler, Esq., via email only ([janeshuler@scsenate.gov](mailto:janeshuler@scsenate.gov))



JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, At-large Seat #9

1. NAME: Catherine B. Templeton  
BUSINESS ADDRESS: Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
Suite 200, 211 King St.  
Charleston, S.C. 29402  
E-MAIL ADDRESS: Catherine.Templeton@OgletreeDeakins.com  
TELEPHONE NUMBER: (office): (843) 853-1300
2. Date of Birth: 1970  
Place of Birth: Columbia, S.C.
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Divorced on August 13, 1999, Richland County Court, Ms. Bowers was the moving party, One Year's Continuous Separation. Married on May 19, 2001, to Morgan Stuart Templeton. Three children.
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) USC School of law, September 1995-May 1998, J.D.;
  - (b) Wofford College, September 1989-May 1993, B.A.;
  - (c) University of Antwerpen, January 1992-June 1992, non-degree program (credits toward Bachelor of Arts at Wofford College).
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
  - (a) North Carolina admitted 1998 – Exam July 27 – 29, 1998;
  - (b) South Carolina admitted 1999 – Exam July 29 – 31, 1998 and February 1999.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) USC School of Law, Honor Court member, 1995–96;
  - (b) USC School of Law, Research Assistant to Professor Ladson Boyle 1997-98;
  - (c) USC School of Law, American Bar Association Real Property, Probate & Trust Journal – Associate Editor, full scholarship 1996-98;

- (d) Wofford College Attorney General - prosecute all student matters for administration in Honor Court, sole disciplinary mechanism for entire college, 1991-92;
  - (e) Wofford College Honor Court Judge – panel consisting of one representative from each class, determining all student discipline 1990-91;
  - (f) Wofford College Resident Assistant – charge of freshman hall, 1990-91;
  - (g) Wofford College Peer Counselor – mentor incoming freshmen, 1990-91;
  - (h) Wofford College Kappa Delta Sorority – Officer, National Convention attendee, Secretary, Panhellenic Representative (KD representative to the Greek Counsel), 1989-93;
  - (i) Wofford College Social Affairs Committee – Chairman – in charge of all non-Greek social activities on campus for students and alumni 1989-92;
  - (j) Wofford College Writer, Old Gold & Black school newspaper, 1990-91.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.
- | <u>Conference/CLE Name</u>   | <u>Date(s)</u>     |
|--|--------------------|
| (a) S.C. Defense Trial Attorneys (SCDTAA)/Claims Managers Association of South Carolina (CMASC) Joint Meeting  | 07/22/10-07/15/10; |
| (b) Mentoring II: Best Practices in Building Sustainable Mentoring Programs  | 04/19/10;          |
| (c) International Association of Defense Counsel (IADC) Mid Year Meeting   | 02/15/10;          |
| (d) SCDTAA Annual Meeting  | 11/05/09;          |
| (e) SCDTAA Joint Meeting   | 7/23/09;           |
| (f) IADC Annual Meeting  | 7/05/09;           |
| (g) SCDTAA Annual Meeting  | 11/13/08;          |
| (h) SCDTAA Joint Meeting   | 7/24/08;           |
| (i) IADC Mid Year Meeting  | 2/09/08;           |
| (j) Charleston Bar Ethics CLE  | 11/12/07;          |
| (k) IADC Annual Meeting  | 7/07/07.           |
| (l) NC Association of Trial Lawyers Professionalism & Substance Abuse/Mental Health Issues   | 12/31/06           |
| (m) SCDTAA Joint Meeting   | 7/27/06            |
| (n) All 2005 credits were carried forward from 2003 and 2004 because I had almost 36 hours in those years and was on bed rest in 2005 during a portion of my pregnancy with the twins. These credits included:<br>SCDTAA Trial Academy, DRI Nursing Home Litigation, NC Bar Substance Abuse CLE, and the SCDTAA Joint Meeting. |                    |

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have presented worldwide webinars for the International Association of Defense Counsel and its corporate members regarding laws against age, disability, race, and gender discrimination.
  - (b) I have crafted the Continuing Legal Education (CLE) topics for both the Annual and Joint Meetings of the S.C. Defense Trial Attorneys Association (SCDTAA) and spoken at the breakout sessions for both on the Ledbetter Act, the Employee Free Choice Act, and various other federal statutes.
  - (c) I have presented in South Carolina and nationwide to lawyers, educators, and the judiciary on iCivics, educating students on the three (3) branches of government and their respective roles.
  - (d) I have lead the SCDTAA Trial Academy for young lawyers and lead a team through all aspects of trying a case during the Academy.
  - (e) I have been approached by various CLE contractors and have occasionally lectured on topics they have proposed.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) Our Courts South Carolina, (Defense Research Institute, For the Defense March 2010), Author;
  - (b) Two Days with Sandra Day O'Connor, (S.C. Defense Trial Attorneys Association, Defenseline, November 2009), Author;
  - (c) iCivics Education, (S.C. Association of School Administrators, Insights, January 2010), Author;
  - (d) S.C. Employers' Handbook, (S.C. Chamber of Commerce, 2000-02), Contributing Author.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the United States Supreme Court September 3, 2010, upon the filing of my first brief with the Court;
  - (b) Admitted to practice before the Fourth Circuit Court of Appeals September 23, 2002;
  - (c) Admitted to practice before the State Courts of South Carolina May 10, 1999;
  - (d) Admitted to practice before the Federal District Court of South Carolina October 21, 1999;
  - (e) Admitted to practice before the State Courts of North Carolina August 29, 1998;
  - (f) Admitted to practice before the Federal Western District Court of North Carolina September 16, 1998;

(g) Admitted to practice before Federal Eastern District Court of North Carolina October 26, 2001.

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

In my third year of law school, the Columbia office of Ogletree Deakins broke away to become Ellzey & Brooks. I had previously accepted a job with the Columbia office of Ogletree Deakins a/k/a Ellzey & Brooks and so I worked there from 1998-2000. After Ogletree re-established another office in Columbia, I was invited to "return" and did so in 2000. I have worked for Ogletree ever since, primarily as a civil defense litigator and a traditional labor lawyer.

In 2001, I began to split my time between the Charleston and Columbia offices of Ogletree to help manage the enormous amount of state court litigation being handled in Charleston. The Charleston office operated as a general insurance defense firm. In 2002, I transferred to the Charleston office of Ogletree permanently. Since 2002, I have handled medical malpractice, nursing home and hospital cases, premises liability and property damage cases, collective actions, and state and federal employment litigation.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

I gained experience very early with the criminal justice system as an intern in the State Grand Jury at the S.C. Attorney General's office, under the Chief Counsel Cameron Currie. I was exposed to a great number of aspects of the criminal system. I visited correctional facilities for witness interviews and to serve warrants for seizure of property. I accompanied the S.C. Law Enforcement Division officers on reverse drug buys (and transcribed even more transactions than I witnessed). I was present during the grand jury's first prosecution of white collar

crime. I monitored the grand jurors as they deliberated and handed down indictments for drug trafficking and I observed now Judge Currie prepare for and prosecute those criminal cases. Criminal and civil trials are different in some respects, but I am familiar with the Rules of Criminal Procedure and the Rules of Evidence. The judge's job is to enforce the Rules by ensuring that the proper evidence is admitted and the proper procedure is followed. I am confident that I will be proficient in enforcing those rules and presiding competently over a criminal trial, should I be seated on the bench.

I am a civil defense attorney. The constant in my practice involves the multitude of federal and state employment laws encompassing Title VII, Fair Labor Standards Act, Americans with Disabilities Act, Family and Medical Leave Act, S.C. Trade Secrets Act, handbook, covenant, and contract law. However, I have handled a great deal of medical malpractice, premises liability, and property damage cases. Additionally, I have dealt with various issues such as ethical disputes regarding lawyer disqualification, temporary restraining orders related to corporations, and property disputes regarding zoning ordinances.

Generally, employment cases are brought and tried in federal court. While the Rules of Civil Procedure in federal court have different nuances than the S.C. Rules of Civil Procedure, the systems are largely based on one another. The greatest difference between the two systems is the finite deadlines in federal court. There are severe, case-altering consequences for missed deadlines in federal court. Having practiced under the federal system for the majority of my career has resulted in my having a tighter state practice.

Procedurally, most of my cases begin with a state or federal deferral administrative agency. Subsequently, the matter moves to state circuit or federal district court. If appropriate under the law, the matter is moved to federal court. Almost without exception, I move for summary judgment on briefs. If the case is not disposed of at this stage, a 1 or 2 week trial is likely indicated. If the matter stays in state circuit court, it is usually regarding a medical malpractice, premises liability, or property damage case; none of which are usually ripe for summary judgment. As a result, those cases either settle or command a 2 to 5 day trial. I have only had 2 cases appealed. One to the Fourth Circuit and one through the Fourth Circuit and on to the United States Supreme Court, where it is currently pending.

15. What is your rating in Martindale-Hubbell?

BV Distinguished 4.4 out of 5 Peer Review Rating;

AV is 4.5 out of 5. Until September 2009, an attorney was not eligible to be rated "AV" until he or she had practiced for 10 years. I have not requested a new rating review since that anniversary.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?
- (a) federal: 35 appearances;
  - (b) state: 71 appearances.
17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?
- (a) civil: 100%;
  - (b) criminal: 0%;
  - (c) domestic: 0%;
  - (d) other: 0%.
18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: 100%;
  - (b) non-jury: 0%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

I served as sole counsel in most of these matters and chief counsel if other attorneys were involved.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) Michele Kimrey v. Jimmy Isleta in Berkeley County was the first case I ever tried. With no knowledge of where in the courtroom it was permissible to sit, I arrived for a roster meeting on behalf of another attorney in my firm. I did not know anything about the case other than it was not likely to be called and my firm was "ready to go." Unfortunately, the attorney handling the case for my firm was trying another case in Dorchester County and the roster fell apart requiring me to pick a jury, produce a pre-trial brief, and submit voir dire to the judge. The next morning, with little command of the S.C. Rules of Evidence and after having read the file, I tried the case. Although I did not get a defense verdict, the client was ecstatic with the nominal damages, the plaintiff's attorney told me he was disappointed that he did not "ring the bell," and the jurors congratulated me in the parking lot for a job well done.
  - (b) Tucker v. Oakbrook in Dorchester County was the first case in which I had deceased key witnesses, an entire family of plaintiff-heirs to wrangle, and requirements from the probate court that contradicted the (at the time) new S.C. Civil Rule of Procedure regarding filing documents under seal. This case was not groundbreaking by others' standards, but



it presented a number of very interesting situations that required inferential research, educated interpretations, and novel maneuvers.

- (c) Sims v. Albemarle in S.C. Federal District Court, Orangeburg Division, was the first case in which a plaintiff in one of my cases appealed the District Court's decision to the Fourth Circuit Court of Appeals. The case helped me understand the informal phrase to "make a federal case out of it." The damages in this case were not large, but the client chose principal over the business decision to settle the case for less than what attorneys' fee would ultimately cost. It was probably the first time I had been given permission by a client to use all appropriate means at my disposal to win the case, instead of simply putting it in the best posture for settlement. It was refreshing to be able to chase ideas and to learn the briefing and hearing process for the Court of Appeals. The Fourth Circuit ultimately affirmed the district court's decision and my client was vindicated.
- (d) Keys v. Ryan's Steakhouse in S.C. Federal District Court, Charleston Division, was a Fair Labor Standards Act collective action. Collective actions, unlike class actions or single party actions, involve separate facts and circumstances for each plaintiff involved in the trial. In effect, the trial consists of several different cases all being tried at once. I tried the case with a partner from Ogletree by dividing the plaintiffs. We each first chaired our own trials and then coordinated who would examine the common witnesses, such as the experts, and who would open, close, object, etc. The collaboration and coordination required to win that case were very satisfying and highly educational. The jury returned a verdict in our favor.
- (e) Hamilton v. Dayco, US Supreme Court, is a *pro se* case currently pending in the United States Supreme Court. It would be inappropriate to comment too specifically on the case because it is pending, but the experience of handling a case against a *pro se* party all the way through to the US Supreme Court has been unique. There are numerous written and unwritten rules by which the courts abide in this situation that are not regularly encountered. Additionally, the deference given a *pro se* party is a study in patience that has proven very valuable.

Suffice it to say that my most "significant" cases have been those in which I have learned something new.

- 20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter)
  - (a) Sims v. Albemarle, Fourth Circuit Court of Appeals, April 1, 2003;
  - (b) Hamilton v. Dayco, United States Supreme Court, *pending*.
- 21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was

reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter). N/A

22. Have you ever held judicial office? No
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. N/A
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?
  - (a) Research Assistant to Prof. Ladson Boyle, 1997-98;
  - (b) Law Clerk, Ogletree, Deakins, Summer 1997;
  - (c) Law Clerk to Director, S.C. Dept. of Labor, Licensing & Regulation, 1995-98;
  - (d) Human Resources Manager, Milliken & Co., 1994-95;
  - (e) Process Improvement Manager, Milliken & Co., 1993-94;
  - (f) Paralegal, Lewis, Babcock & Hawkins, Summer 1993;
  - (g) Intern, Lewis, Babcock & Hawkins, Summer 1992;
  - (h) Intern, S.C. Attorney General's Office, Summer 1991;
  - (i) Janitor, Brawley Building, Summer 1991.
28. Are you now an officer or director or involved in the management of any business enterprise? No
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?  
No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. N/A
40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. N/A
41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.  
None as of the signing of this document.
42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

Friends and colleagues have offered to make introductions to various members of the General Assembly. I have instructed each individual who has offered that the law prohibits him or her from requesting a pledge, commitment, or vote regarding this judicial seat. No commitments have been solicited or made.

45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No
47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
  - (a) S.C. Bar Association 1999 to present;
  - (b) NC Bar Association 1998 to present;
  - (c) S.C. Defense Trial Attorneys Association 2001 to present  
Board Member 2003 to present;
  - (d) Defense Research Institute 2002 to present;
  - (e) International Association of Defense Counsel 2008 to present  
Substantive Law Committee Co-Chair 2008 to present  
Major Continuing Legal Education Committee Member, 2010.
48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
  - (a) Boy Scouts of America  
Board Member Coastal Council, 2009-10;
  - (b) South Carolina Defense Trial Attorneys Association  
Member, 2001 to present  
Board Member, 2003 to present;
  - (c) Gibbes Museum of Art Women's Council of the Carolina Arts Association;  
Officer and Board Member, 2004-08
  - (d) Junior Leagues of Columbia and Charleston  
Chair of numerous committees including Low Country Food Bank and Smart Matters, 1999-2009;
  - (e) Garden Club of Charleston  
Member, 2002 to present  
Charitable Fund Treasurer, Board Member, 2008-10;
  - (f) International Association of Defense Counsel  
100 year old merit based, invitation only organization of attorneys worldwide  
Member, 2008 to present  
Substantive Law Committee Co-Chair, 2008

- Major Continuing Legal Education Committee Member, 2010;
- (g) First Scots Presbyterian Kindergarten  
Board Member and President, Parents' Association, 2009-10;
- (h) St. Michael's Episcopal Church  
Sunday School Coordinator, 2007-08  
Sunday School Teacher and Children's Chapel Coordinator 2010;
- (i) Appointed National Coordinator of iCivics by U.S. Supreme Court  
(Ret.) Justice Sandra Day O'Connor – Georgetown Law School -2010;
- (j) Awarded the Compleat Lawyer Award by the USC School of Law,  
S.C. Court of Appeals, S.C. Supreme Court, and S.C. Bar Association  
– 2010;
- (k) Voted by fellow attorneys to be one of the Best Lawyers in America,  
2009-10;
- (l) Appointed S.C. Coordinator of Our Courts by U.S. Supreme Court  
(Ret.) Justice Sandra Day O'Connor - 2009.

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I have always worked tirelessly for causes about which I am passionate. I have spent the last almost 14 years engaged in some type of legal practice in South Carolina and I am invested in this profession. I believe when parties enter a courtroom, they have sacrificed enormous amounts of time, money, and emotions to prepare their case to be heard. I believe they should get a fair fight that is not in any way dependent on the judge's personal beliefs or attitude. It is with conviction that I believe I can fairly and impartially referee proceedings while assuaging the fears of the parties.

I have lived and worked all over South Carolina; on the line in manufacturing facilities and behind a desk in a corporate office. I have worked for a plaintiff's firm, a government prosecutorial agency, and a corporate defense firm. I have cleaned office buildings and lived in fishing trailers and I have hosted Governors, an Ambassador, and a United States Supreme Court Justice. I have learned one thing above all else: we are all equal and each individual should be afforded respect and access to the process.

50. References:

- (a) Lewis Smoak, Esq.  
Ogletree Deakins Law Firm  
300 N. Main St.  
Greenville, S.C. 29601  
(864) 271-1300
- (b) Molly Craig, Esq.  
Hood Law Firm  
172 Meeting St.  
Charleston, S.C. 29401  
(843) 577-4435

- (c) Cam Lewis, Esq.  
Lewis & Babcock  
1513 Hampton St.  
Columbia, S.C. 29201  
(803) 771-8000
- (d) Lewis Gossett, Esq.  
1340 Bull St.  
Columbia, S.C. 29201  
(803) 799-9695
- (e) Wachovia Bank, N.A.  
16 Broad St.  
Charleston, S.C. 29401  
(843) 937-4550

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE  
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR  
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST  
OF MY KNOWLEDGE.

Signature: Catherine Templeton  
Date: September 10, 2010

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Catherine McCabe Brawley Templeton  
Business Address: Ogletree Deakins Law Firm  
211 King St., Suite 200,  
Charleston, SC 29402  
Business Telephone: (843) 853-1300

1. Why do you want to serve as a Circuit Court judge?

It is important that the parties who come before the court have confidence in the impartiality of the judge and can rely on the law to be applied and interpreted as it is written. It is also critical to the entire system of government and economy that the business of the court move along in an efficient manner. I have the experience, organizational skills, and work ethic to referee the cases and controversies that come before the court in a judicious manner. I have satisfactorily accomplished a number of things in private practice and I have a responsibility and desire to give the same effort back to the profession as a public servant.

2. Do you plan to serve your full term if elected? Yes.

3. Do you have any plans to return to private practice one day?

It is certainly possible; however, I currently have no plans beyond the pendency of the Seat 9 term.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

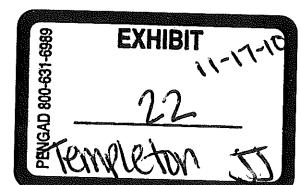
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I would tolerate *ex parte* communications under the conditions of Canon 3. Specifically, I would tolerate administrative, logistical, or ministerial communications to the extent that the communications further the business of the court without involving the substance or procedural posture of the matter before the court.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I will recuse myself pursuant to the Code of Judicial Conduct, but I will err on the side of caution and to ensure the appearance of impartiality and propriety.

7. If you disclosed something that had the appearance of bias, but you



believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

The dynamic of every motion is unique and it is not possible or appropriate to predict any ruling. The Judicial Canons require that a member of the judiciary avoid even the appearance of impropriety. Appearing to have a bias would be improper under the Rules and would likely result in granting of the motion. However, the commentary to the Rules recognizes that there are situations in which a party may request recusal as a trial tactic and for no other reason. While I will always err on the side of recusal, if I will actually not be prejudiced and it is patently obvious that the party is making the motion to manipulate the court improperly, I may not grant the motion.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would err on the side of recusal to avoid any appearance of impropriety, but would balance the decision with my actual ability to be fair and impartial and how remote the relative or situation is in relation to me. If reasonable minds would perceive that my integrity, impartiality and competence were impaired by the imputed involvement, recusal would be appropriate.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I do not currently receive gifts from colleagues. I would not expect to start receiving them after being elected to the bench, nor would I accept them. I would attend social events as polite society dictates, but regret invitations of special access or exclusivity resulting from or remotely related to my position on the bench.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I believe the Code of Judicial Conduct is clear that the discharge of disciplinary responsibilities is a part of a judge's judicial duty. Reports of misconduct to the appropriate authority, however, are not to be made lightly. The Code recognizes that becoming aware of information indicating misconduct and having firsthand knowledge of the misconduct are treated differently. In both instances, however, it is imperative that the judge act carefully and with a command of all the circumstances involved.

If I received information about the alleged misconduct I would consider the severity of the perceived misconduct and certainty of the facts surrounding it. I would communicate directly with the judge or lawyer accused and may report the violation to the appropriate authority if warranted.

If I had first hand knowledge that another judge or lawyer committed a violation that raised a substantial question as to the judge's



fitness for office or the lawyer's honesty, trustworthiness or fitness as a lawyer, Canon 3 requires that the misconduct be reported to the appropriate authority; likely the Office of Disciplinary Counsel, which is tasked with screening and investigating complaints made against lawyers and judges.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

If I were elected, I would need to resign from the SC Defense Trial Attorneys Board and the membership of the International Association of Defense Counsel.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. If elected, how would you handle the drafting of orders?

I would use a Form 4 unless the decision required some written analysis. If the decision required written analysis, I would request a proposed order in soft format for my revisions or competing orders, depending on the circumstances.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

All matters will be processed efficiently with an emphasis on hearing motions, the disposition of which will allow cases to move forward expeditiously. Any hard deadlines will be noted on a calendaring system.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

The three branches of government have clear and separate responsibilities. The role of the judiciary is to interpret and apply the law, not create it.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I will continue my work with iCivics.org, which is a national, apolitical educational resource available free of charge to schools nationwide. As the National Coordinator of iCivics, I have seen the importance firsthand of educating the nation's middle school students on the three branches of government; including, obviously, the role of the judiciary. In South Carolina, the Young Lawyers Division of the SC Bar Association has created a committee to take iCivics into our local schools. As a result, the most diverse population of our legal profession is interacting with middle school students on a personal level. I will continue my work with this committee, the SC Judicial Department, the SC Department of Education, and iCivics on the state and national levels.

Additionally, after having attended Justice Kittredge's symposium on professionalism and mentoring, I will be involved in the judicial

department's initiative in whatever capacity is appropriate and requested.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

All demands on my time are a stressor for my personal relationships; whether in private practice or as a judge. However, I would not be applying for this judicial position without first having the support of my husband, family, and friends. My husband and children are my first priority. I am confident, however, that I can be one of the most available judges on the bench and still be present as a wife and mother.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

- a. Repeat offenders:
- b. Juveniles (that have been waived to the circuit court):
- c. White collar criminals:
- d. Defendants with a socially and/or economically disadvantaged background:
- e. Elderly defendants or those with some infirmity:

The circumstances surrounding every offense are unique and no generalization should be applied to any individual or category of offender. I will consider the totality of the circumstances before sentencing any offender and his or her inclusion in one of these categories may be a factor that influences the sentence.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

By definition, "*de minimis*" means that the interest is so insignificant that it "could not raise reasonable question as to a judge's impartiality." *Rule 501, Code of Judicial Conduct, Terminology*. However, if I believe that this interest could be substantially affected by the proceedings to make it more than a *de minimis* interest, or if there was, in reality, a bias on my part, I would recuse myself.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

The judge sets the tone for the entire courtroom and it is incumbent upon him or her to be punctual, polite, and professional. Judges should be courteous and diligent about moving the proceedings

along expeditiously and ensuring decorum. While going about the business of the court, it is critical, however, for the judge to be even tempered, mature, and considerate.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

It is important for members of the judiciary to conduct themselves respectably seven days a week, twenty-four hours a day. Judges must be perceived as level headed and possessing good judgment. Additionally, there is no need to be temperamental, immature, or inconsiderate in ones "private" life.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

It serves no purpose whatsoever to get angry with the participants in the proceeding. Every individual in a courtroom is under a heightened level of stress. The attorneys are focused on making their arguments; the parties are invested either financially or emotionally, or both; and the jurors are likely inconvenienced because they are putting their lives on hold to serve. It is the judge's responsibility to set the tone, referee the proceedings, and advance the business of the court in an efficient, professional manner. I am sure there will be times when the natural reaction might be anger. A judge is, however, to uphold a higher standard of self control when discharging his or her duties and the judge's personal emotions should never be a factor in any proceeding.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? \$0. N/A

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

Colleagues have made introductions to some members of the General Assembly on my behalf, but only introductions. No pledges or commitments have been requested or received.

31. Have you contacted any members of the Judicial Merit Selection Commission? No.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from

seeking pledges for 48 hours after the draft report has been submitted?  
Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE  
TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Catherine McCabe Brawley Templeton

Sworn to before me this 10<sup>th</sup> day of September, 2010. \_\_\_\_\_

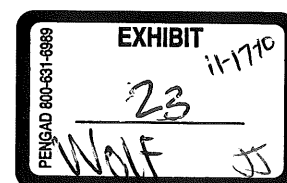
Notary Public for S.C.

My Commission Expires: 3-2-2011 \_\_\_\_\_

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:  
Circuit Court, At Large No. 9

1. NAME: Mr. David Whitten Wolf  
BUSINESS ADDRESS: 286 Meeting Street  
Charleston, S.C. 29401  
E-MAIL ADDRESS: david@wolflaw.com  
TELEPHONE NUMBER: (office): (843) 853-9000
2. Date of Birth: 1971  
Place of Birth: Indianapolis, IN
3. Are you a citizen of South Carolina? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on May 6, 2001, to Heather Carey Wolf. Never divorced. Two children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) Clemson University: Aug. 1990 – May 1994, B.S., Bus. Mgmt. Grad.  
Aug. 1994 – May 1995 (Post-Baccalaureate Accounting)
  - (b) Univ. of South Carolina, Aug 1995 - May 1999, J.D./M.B.A. Grad.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina: Summer 1999
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
  - (a) 1990 & 1991 Participated in College Newspaper and Yearbook Staffs
  - (b) 1992-94 Member of Business Fraternity – Delta Sigma Pi, which was active in professional development, academic improvement and community service – President in 1994.
  - (c) 1997-98 Active in Student Government for Law School and MBA program; served as election coordinator for the SBA in 1998.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.



- |     | <u>Conference/CLE Name</u>  | <u>Date(s)</u> |
|-----|---|----------------|
|     | (a) Criminal Law Update   | 01/21/05;      |
|     | (b) US District Court ECF Training  | 01/27/05;      |
|     | (c) Public Defender Conference  | 09/26/05;      |
|     | (d) What Works for You  | 12/16/05;      |
|     | (e) Law Office Technology Seminar   | 01/25/07;      |
|     | (f) Corporate, Banking, and Securities Law  | 01/26/07;      |
|     | (g) Solo and Small Firm Practitioners Section   | 01/26/07;      |
|     | (h) Law Firm Management Seminar   | 01/27/07;      |
|     | (i) Breakfast Ethics Seminar  | 01/28/07;      |
|     | (j) Legal Issues for Non-Profits  | 03/30/07;      |
|     | (k) Case Management Order   | 06/15/07;      |
|     | (l) Law Office Technology Seminar   | 01/24/08;      |
|     | (m) Law Firm Management Seminar   | 01/26/08;      |
|     | (n) Ethics, Baseball, Shoeless Joe Jackson, etc.  | 02/12/08;      |
|     | (o) Issues in Choice of Entity  | 08/28/08;      |
|     | (p) Law Office Technology   | 01/22/09;      |
|     | (q) Mastering Cross-examination   | 02/06/09;      |
|     | (r) Ethics in E-Discovery   | 02/27/09;      |
|     | (s) May Your Office Be With You   | 06/30/09;      |
|     | (t) Law Firm Management Seminar   | 01/23/10;      |
|     | (u) Lawyer Mentoring Orientation – Training Workshop  | 01/28/10;      |
|     | (v) Masters in Opening Statements and Closing Arguments   | 02/12/10.      |
| 11. | Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?   |                |
|     | I have spoken four or five times to law students at the Charleston School of Law about setting up a private practice; business and commercial law topics; and as a primer for solicitor/public defender summer clerks.  |                |
| 12. | List all published books and articles you have written and give citations and the dates of publication for each.  |                |
|     | None  |                |
| 13. | List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.   |                |
|     | (a) Admitted to practice before the State Courts of South Carolina in 1999;   |                |
|     | (b) Also admitted to practice before the Federal District Court in 2003.  |                |
| 14. | Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years. |                |
|     | (a) 1999-2001   |                |
|     | Law Clerk to the Honorable Daniel F. Pieper – Reviewed case files and prepared bench memoranda; kept notes of the evidence presented  |                |

for each element of a cause of action, criminal offense, or defense; discussed and debated legal issues relevant to the case; and drafted judicial orders and otherwise assisted the judge in his decision making process for each hearing or trial.

(b) 2001-03

Staff Attorney for the Charleston County Public Defender – Handled cases from assignment following arrest and bond hearing through preliminary hearing; discovery and investigation; pre-trial preparation; trials and post-trial pleadings for charges ranging from property crime enhancements and drug possession to burglary and murder.

(c) 2003-06

Associate and Of Counsel to Savage & Savage, P.A. – Assisted the partners with handling civil and criminal matters; particularly involved in numerous high-profile criminal proceedings by reviewing discovery and investigating defenses and preparing pre-trial motions; participated in trials and post-trial pleadings; also participated in a limited number of appellate matters in Federal cases.

(d) 2005-10

Partner in law practice primarily focusing on providing advice and services to small to medium sized businesses, including transactional and litigation matters and serving as counsel or local counsel for several large public entities. Continued to accept a limited number of criminal matters and remained on the criminal appointment list to continue my involvement in General Sessions court.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

(b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

As a staff attorney at the Charleston County Public Defender's Office and an associate at Savage & Savage, P.A. working closely with Andy Savage, I have worked on hundreds of criminal cases at the

Magistrate/Municipal Court, General Sessions Court and Federal Court levels. The types of cases I have handled include simple possession of marijuana, minor in possession of alcohol, property crime enhancements, drug trafficking, kidnapping, criminal sexual conduct, burglary and murder. For those cases, I typically developed trial notebooks, supervised the investigation of the charged offenses, attempted to develop meritorious defenses, prepared motions and participated in trials in those matters which weren't resolved prior to trial. Significant issues I have addressed over the past five years include: 1) use of a necessity defense in a Murder/Leaving the Scene of an Accident Where Death Results [State v. Jerrod Herrin]; 2) the availability of an involuntary manslaughter charge for the killing of bystanders when a self-defense theory has been presented because a jury could find the defendant recklessly disregarded the bystanders' safety [State v. Albert Nole, Jr.]; 3) enforcement of a plea agreement once the defendant has detrimentally relied on the agreement [State v. Andrew Hunt]; 4) the lawfulness of an arrest pursuant to a municipal arrest warrant which is executed in a different county without obtaining a counter signature from a Magistrate in the county which the defendant is to be arrested [State v. Demetrius Smalls]; 5) whether a fourteen year old should be waived to the General Sessions Court in a Murder case where the defendant was not the triggerman (handled in Family Court, but implicated General Sessions issues) [State v. Quinton Summers]; 6) factors relevant to determining the reliability of an identification [State v. Jacques Jefferson and State v. Demetrius Smalls]; 7) voluntariness of a defendant's statement after numerous hours of custodial interrogation and limited rest and sustenance [State v. Demetrius Smalls]; 8) Admissibility of diatom (tiny fossil remains of micro-organisms found in water) evidence to attempt to determine whether a decedent drown in a pond or died elsewhere and was placed in the pond post-mortem [State v. Renee Britt]; and 9) transferred self-defense [State v. Albert Nole, Sr.]. Many of these cases were high profile cases which garnered substantial media attention and required additional poise in presenting our theory of the case.

While a law clerk to the Honorable Daniel F. Pieper, I was exposed to a wide variety of procedural and substantive issues in the Court of Common Pleas. During my tenure at Savage & Savage, P.A. and since establishing Wolf & Wolf, LLC, I have handled civil matters generally related to business and commercial transactions. I have represented large corporations, such as Rock-Tenn Company; AGFAPhoto USA, Corp.; and Mueller Water Products, Inc., as well as smaller commercial enterprises. In addition to attempting to collect past due and wrongfully withheld obligations or to work out obligations due which could not immediately be paid on behalf of my clients, I have



initiated mechanics lien foreclosures, consumer protection suits, protection of intellectual property rights, actions to dissolve Limited Liability Companies or Corporations, breach of contract claims, bailment liability, fair debt collection practices act violations, unfair trade practices acts, wrongful dishonor of a letter of credit and many others. I have handled such claims from the investigation and preparation of the Summons and Complaint, through the discovery process, pre-trial motions hearings, preparation for trial and in some instances, trial of the matter. Additionally, I have defended clients who have been accused of premises liability, breach of contract on an account, fraud and misrepresentation, patent infringement, conversion, failure to pay business brokerage fees, and mechanics lien foreclosures. My representation of parties involved with these cases has been fairly evenly divided between plaintiffs and defendants. Significant issues I have addressed in civil cases over the past five years include: 1) fiduciary liability for conversion in a principal/agent relationship [*Erica and Yolande Brooks v. Consumer Remedies, Inc. and Colleen Cole-Velasquez*, 2006-CP-08-1585]; 2) does the repeated failure to pay a subcontractor's invoices constitute fraud in order for punitive damages to be awarded [*Walter M. Green, Jr., d/b/a Green Concrete Finishers v. D.R. Horton, Inc., Gregory E. Amirault, and James M. Prevatt*, 2006-CP-08-771]; 3) does a debt collector violate the Fair Debt Collection Practices Act by misrepresenting to the parents of an adult debtor that the parents executed a guarantee of the debt when no such guarantee exists [*Ed and Dawn Rice v. Greentree Associates, L.P., Stonemark Management, LLC, NCC Business Services, Inc., NCC Business Services of America, Inc., and NCC Holdings, Inc.*, 2009-CP-18-1426]; 4) what damage is a consumer permitted to recoup when a lender violates the statutory provisions related to a right to cure notice and the permissible period in which the consumer may cure [*Marvetta S. Holmes and Daemeon Holmes v. Barnett Finance Company, Inc.*, 2009-CP-10-3463]; 5) is a warehouseman responsible for lost articles which were the subject of a dispute between a foreign manufacturer and a local importer that lasted for more than a year before the importer was granted title [*Acciris Company, Inc. v. The Burris Company of Charleston, LLC, and M. Bruce Burris*, 2009-CP-10-1360]; 6) common enemy rule with regard to water flowing from one property to another and interfering with the second property owner's enjoyment of their property [*H. Sandra Toney v. Gayle Meacher Boyd, Eunice Meacher, and John Boyd*, 2007-CP-86-002107]; 7) tort liability for misrepresentations which induced an asset purchase agreement for the sale of a business [*Ruben Kornfeld and Tuscan Bistro, Inc. v. Scotto Company of Summerville, LLC*, 2009-CP-18-3348 and *China Gourmet, Inc. v. Robin Dale Cumbie and Trayco, LLC*, 2009-CP-10-4998]; 8) Mental Capacity

to enter into a contractual relationship [*Wachovia Dealer Services, Inc. v. Amelia T. Coker as Personal Representative of the Estate of Theodore J. Coker and FreedomRoads, LLC, Holiday Kamper Company of Columbia, LLC d/b/a Camping World RV Sales*, 2009-CP-10-1430]; 9) enforcement of an oral business brokerage agreement [*Jonathan Kronsberg Consulting, LLC v. Raiford G. Trask, III, and Cape Fear Rod Company d/b/a Fin-Nor*, 2005-CP-10-5089]; and 10) wrongful dishonor of a Letter of Credit when the bank was precluded from asserting a documentary discrepancy as a result of its failure to comply with the uniform customs and practices they elected to adopt [*Rock-Tenn Company v. South Carolina Bank and Trust, N.A.*, 2007-CP-10-5017].

15. What is your rating in Martindale-Hubbell? BV rated since 2005.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the past five years?

- (a) federal: Infrequent (approximately ten appearances in 5 years, but currently have two cases pending, so appearances are likely to increase);
- (b) state: Frequently (approximately eighty or more appearances in the past 5 years).

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?

- (a) civil: 50% (greater emphasis in more recent years);
- (b) criminal: 40% (greater emphasis in earlier years);
- (c) domestic: 2%;
- (d) other: 8% (administrative).

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 60%;
- (b) non-jury: 40%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Rock-Tenn Company v. South Carolina Bank and Trust, N.A., 2007-CP-10-5017 – This matter involved a claim of wrongful dishonor of a Letter of Credit issued by the bank to Rock-Tenn. While the bank asserted that my client failed to strictly comply with the documentary requirements of the Letter of Credit, we were able to undermine the bank's position and invoked the preclusionary rule set forth in the Uniform Customs and Practice for Documentary Credits 500, which

were expressly adopted by the terms of the Letter of Credit prepared by the bank, that prohibited the bank from prevailing on its strict compliance theory and the matter was settled favorably to my client after each party filed motions for summary judgment.

- (b) State v. Albert Nole – Successfully argued that a former constable who became involved in a roadside dispute with a person who had been charged with drug related criminal activity was entitled to Involuntary Manslaughter and Transferred Self-Defense charges when the defendant shot the other person and two bystanders, killing the bystanders, after the defendant asserted the other person pulled a gun on him and the defendant shot to defend himself. After asserting that although the defendant's conduct to suppress the threat presented by the other person was intentional, the jury could find that the deaths were unintentional but caused by the defendant's reckless disregard for the safety of the two bystanders.
- (c) Marvetta S. Holmes and Daameon Holmes v. Barnett Finance Company, Inc., 2009-CP-10-3463 - After Holmes received a right to cure notice granting a certain period of time to pay the past due balance owed for a vehicle she purchased under an installment contract financed by the defendant, her car was repossessed prior to the cure date, thereby depriving Holmes of her statutory right to cure. The car was eventually returned to Holmes days later and the defendant eventually settled the claim rather than taking the matter to trial.
- (d) United States v. Huffines - The defendant was charged with possession of child pornography for thumbnail images which were displayed on pages which popped up onto the defendant's computer screen while performing searches on the internet. In preparation for the trial of the case, I prepared a motion requesting that the government be required to present the images to the jury in the context in which the images arrived on the defendant's computer rather than in larger images utilized by the government during the inspection of the evidence. When the Court granted this motion, the government elected not to proceed with the case and the charges were ultimately dropped.
- (e) DSS v. DC and KR – My client was a fourteen year old girl whose two month old child was slapped in the face by the child's father after my client left the child with its paternal grandmother. After returning to find the child's face red and one eye swollen shut, my client and the child's paternal aunt (who was a nurse) took the child to the hospital. During examinations of the child, healed fractures to his legs were discovered and the child was taken into emergency protective custody. Handling the matter pro bono, I worked with my client's family in an effort to have the child returned to the maternal grandmother's custody in an effort to reunite the child with his family. After a three day trial on my client's abuse and neglect charges, which resulted in a lesser finding of

medical neglect rather than the abuse and neglect alleged, my client was provided with a treatment plan to work towards reestablishing custody. In addition, the maternal grandparents were given conditions to fulfill before they could petition for custody of the child. Ultimately, the grandparents satisfied the conditions set for them and the child was placed in the custody of the grandmother, where he currently resides and is thriving. Despite the substantial time devoted to this case, the satisfaction of restoring a family unit was a very rewarding experience.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. None
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
  - (a) United States of America v. Theodore Thomas Wagner, Fourth Circuit Court of Appeals, Decided February 23, 2004 in an unpublished opinion No. 03-4409 – I prepared the Anders brief while an associate at Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case.
  - (b) United States of America v. Terrance Smalls, 134 Fed. Appx. 609, 616, 2005 WL 1395162 (4<sup>th</sup> Cir. 2005) (unpublished) – I prepared the appellate brief for Andrew J. Savage, III, who was counsel of record in this CJA case, asserting that the defendant's sentence was imposed in violation of the Sixth Amendment pursuant to the Supreme Court's ruling in *United States v. Booker*, 543 U.S. 220 (2005), because the sentencing court found facts beyond those admitted by the defendant to conclude a life sentence was appropriate under the sentencing guidelines. The defendant's sentences were vacated and the matter was remanded for resentencing.
  - (c) United States of America v. Terrance Smalls, Fourth Circuit Court of Appeals, Decided June 13, 2006 in an unpublished opinion No. 05-4879 – I prepared the Anders brief while Of Counsel to Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case.
22. Have you ever held judicial office? No.
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?  
None, except as a Notary Public.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. N/A

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No.
28. Are you now an officer or director or involved in the management of any business enterprise?
- (a) Wolf & Wolf, LLC. – Assist in the management of the law practice, tax and other regulatory reporting. Term is indefinite;
  - (b) David W. Wolf, P.A. – Manage the professional association that is a member of Wolf & Wolf, LLC and perform tax and other regulatory reporting. Term is indefinite.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.
- The only financial arrangements I believe create the possibility of a conflict of interest are my investments in a family real estate holding company and publicly traded stocks. If the family real estate holding company or any of the corporations I have invested in were to be sued in South Carolina and the case was set for trial or a hearing during a term I was assigned to handle, to avoid the appearance of impropriety, I would withdraw from handling the trial or hearing.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?
- Arrested for shoplifting in 1990 or 1991 in Anderson County while a freshman in college and was immediately referred to PTI. Following completion of PTI, the charge was dismissed and ultimately the arrest record expunged.
- Ticketed for trespassing in 1994 in Pickens County when I, my sister (an architecture student at Clemson), and two other Clemson students (one of whom was a textile student) went and videotaped the architectural elements of an empty textile mill for an architecture course my sister was enrolled in. After explaining to the Magistrate what happened, the charges were dismissed.
- I have had speeding tickets, but I don't believe any of them carried a fine in excess of \$125.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

While in law school, my roommates and I moved from our rented apartment in the summer when the HVAC broke and could not be repaired over a protracted period. The landlord sued us for two months rent remaining on the lease and the matter was ultimately settled.

36. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No.

37. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.

38. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.

39. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I have no knowledge of any charges or allegations against me or another.

40. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I have no knowledge of any charges or allegations against me or another.

41. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.

Paper and Postage: \$21.91 (Between August 30 and 31).

42. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.

My firm initiated an online contribution to Anne Peterson Hutto, who our firm has previously provided support, prior to the announcement of my intent

to seek election to this judicial seat. However, the firm was later advised that a security protocol cancelled the transaction because the credit card, which was a new card issued by a different bank than previously used on the firm's paypal account, was not yet a verified card on the firm's paypal account. As a result, my firm will resubmit the Two Hundred and Fifty Dollar (\$250.00) contribution that it previously initiated.

43. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No requests have been made or pledges given.

44. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? I

I have not requested nor am I aware of anyone who has contacted members of the General Assembly on my behalf.

45. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.

46. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?

Besides submitting my Notice of Intent to pursue a judicial vacancy and writing an introductory letter to the members of the Judicial Merit Selection Commission who are members of my local circuit's legislative delegation, I have not nor am I aware of anyone else contacting members of the Judicial Merit Selection Commission about my candidacy. The letters I forwarded were merely to provide information about myself and in no way requested a pledge for support.

47. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.

- (a) S.C. Bar Association
- (b) Charleston County Bar Association
- (c) James L. Petigru American Inn of Court

48. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

- (a) Charleston Chamber of Commerce;
- (b) American Cancer Society;
- (c) Charleston County Clemson Club;
- (d) Clemson University College of Business and Behavioral Sciences' Accounting, Finance and Legal Studies Advisory Board.

49. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

Since my admission to the S.C. Bar in 1999, I have endeavored to give back to the community both through legal assistance and through more traditional community service. I have participated in organizations such as Kiwanis, Habitat for Humanity, and The American Cancer Society to make our community a better place. Since I went into private practice in 2003, I have continued to set aside time to give back to the community through Young Lawyer Division community service projects such as donating school supplies, Wills for Heroes and participation in Law Week events. Additionally, I have contributed significant time in free and/or reduced fee representation to people who were not in a position to retain my services but desperately needed legal services. I believe my decision to seek the vacant At-Large Seat No. 9 is an extension of my desire to give back to the community by providing conflict resolution services on behalf of the State of South Carolina. Based upon my exposure to the judicial function as a law clerk, I have maintained an interest and sought to expand my experience in all aspects of a Circuit Court practice to maximize my effectiveness were I granted this opportunity. I would put the same effort into being a successful judge as I have into being a successful law clerk, staff attorney in a public agency, and private practitioner.

50. References:

- (a) Daniel Ravenel
- (b) Andrew J. Savage, III
- (c) The Honorable Scarlett Wilson
- (d) Caroline Lesesne (Banker)
- (e) Diedreich P. von Lehe, III

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: David Wolf

Date: September 12, 2010



JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: David Whitten Wolf  
Business Address: 286 Meeting Street  
Charleston, SC 29401  
Business Telephone: (843) 853-9000

1. Why do you want to serve as a Circuit Court judge?

Following graduation from law school, I had the privilege of clerking for the Honorable Daniel F. Pieper for two years. The challenges of functioning as a trial court judge were both intriguing and appealing. Serving as a public defender, in a private litigation practice and in a business law firm that handles transactional matters as well as litigation has been rewarding and afforded an opportunity to grow. It has also enabled me to crystallize my thoughts regarding what I have concluded will provide the most satisfying application of my education, experience and interests. I would like to pursue my legal career as a member of the South Carolina judiciary.

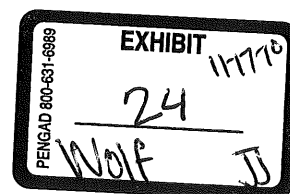
2. Do you plan to serve your full term if elected? Absolutely.  
3. Do you have any plans to return to private practice one day?  
Not at this time.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? I have.  
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Only when the parameters of a permissible *ex parte* Motion, such as an emergency TRO, have been met. Otherwise, in my view *ex parte* communications are inappropriate because of the possible negative perceptions.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Although I do not believe recusal should be automatic when a lawyer-legislator or former co-worker (whether they be a former associate, supervising attorney, or merely a colleague) is scheduled to appear in front of me, I would consider whether an actual conflict of interest exists or there would be an appearance of impropriety if I proceeded with the hearing or trial. If either existed, I believe recusal



would be the best course of action. In the case of a former law partner, I believe the appearance warrants recusal regardless of whether I could remain impartial throughout the course of the hearing or trial, particularly since my only law partner to date is also my father.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

The justice system is dependent on the public's confidence in the rulings and resolutions of the courts. Consequently, if there is an appearance of bias or partiality, the request for recusal should be given serious consideration and absent being able to clearly and unequivocally conclude that I would be impartial, I would grant the motion.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I believe it would be best to eliminate any circumstances which would suggest I might have a financial or social incentive in any case because my wife or a close family member is connected to some party and would, after disclosing the connection to all parties, disqualify myself, unless the parties decide to waive the disqualification.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would gracefully decline any gifts or offers of hospitality involving anything more than a courtesy with *de minimus* value.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would satisfy myself that there was sufficient basis to believe the lawyer or judge engaged in misconduct and if I concluded there was sufficient basis, I would report the situation to the appropriate authorities.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

I was recently selected to an Advisory Board for the Clemson University College of Business and Behavioral Sciences, Accounting, Finance and Legal Studies, which as I understand Canon 4(C)(2) will have to be re-evaluated and if so, I would withdraw from my position on the board.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I expect to retain my interest in our family real estate holding company, ABRRA LLC, but with my father being the sole manager of the manager managed LLC, I do not anticipate it interfering with the obligations of the judicial position I am seeking.

13. If elected, how would you handle the drafting of orders?

I anticipate adopting the same philosophy utilized by the Honorable Daniel F. Pieper when I was clerking for him, which was that all orders, except routine issues such as orders substituting counsel or compelling discovery, will be prepared by me with the help of my staff and with due consideration of any proposed orders submitted by the parties.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I would calendar matters under advisement and any other duties with deadlines and meet with my staff regularly to evaluate what needs to be done so all deadlines would be met.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I believe a judge's responsibility is to apply the law as it exists and, unless an appellate court has determined that public policy is a factor to be considered for purposes of ruling on a matter, I do not believe it is within the purview of the trial judge's place to implement or promote his or her perception of public policy.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

For the last five years I have participated in the S.C. Bar House of Delegates, Fee Dispute Resolution Board for the Ninth Judicial Circuit, Wills for Heroes Clinics, and other Bar affiliated community service projects. Additionally, I have given talks to law students about the practice of law and acted as a judge during oral arguments for a legal writing class. While I do not believe it would be appropriate as a judge to continue my participation in the Fee Dispute Resolution Board, I intend to continue these others and similar activities as my schedule may permit.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

I don't anticipate the pressure of serving as a judge creating any strain on my personal relationships beyond the stresses and strains inherent in serving in any professional capacity. Since my father has practiced law and served as general counsel of several large corporations, my family is quite familiar with the demands of a legal career as a lawyer or a judge. To the extent my friends did not appreciate that certain actions or activities would be inappropriate if I was serving as a judge, I would try to explain to that person why I feel that the action requested would be inappropriate and ask them to understand why I could not honor their request.

18. The following list contains five categories of offenders that would

perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Because a repeat offender's sentence will be governed by the charged offense, I expect, barring significant mitigating factors, any sentence I would pronounce would involve consideration of the defendant's prior criminal conduct and be based upon the offender's prior history of incarceration as well as what period I believe will be necessary to accomplish the three goals of sentencing. In all likelihood the sentence would be greater than the average period I would give for such a crime without considering aggravating and mitigating circumstances.

b. Juveniles (that have been waived to the circuit court):

With the Family Court having waived its jurisdiction and transferring the defendant to Circuit Court, my consideration of the appropriate sentence would begin in the same manner as any General Sessions defendant and would take into consideration the facts of the case, any aggravating or mitigating circumstances, and the goals of sentencing along with the defendant's age.

c. White collar criminals:

Defendants convicted of a white collar crime should be sentenced without regard to their socio-economic position, but instead based upon the facts and circumstances of the offense(s), likelihood that restitution can be made to minimize the injury to victim(s), and the need to discourage other white collar criminals.

d. Defendants with a socially and/or economically disadvantaged background:

Social and economic disadvantage may constitute a mitigating circumstance and should be considered to the extent it may have contributed to the defendant's criminal act, such as someone whose mental disability is taken advantage of by a more sophisticated perpetrator.

e. Elderly defendants or those with some infirmity:

Because protection of the public is one of the three goals of sentencing, a defendant's advanced age or infirmity may provide some basis for mitigating the sentence, but requires consideration of the facts and circumstances of the crime and the impact the crime has on the State and its citizens.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

The only situation I might foresee is if our family real estate holding company, ABRRA LLC, was sued, but I would disqualify myself from any such case.

20. Would you hear a case where you or a member of your family held a *de*

*minimis* financial interest in a party involved?

While it might delay the resolution of a case, I believe it would be best not to handle any cases where a member of my family held any financial interest in a party involved other than the *de minimus* ownership of a public company. This would eliminate any possibility that handling the case would appear to be improper and erode any particular party's or the public's confidence in our court system. However, if after disclosure the parties and their counsel wish to waive the disqualification, I would proceed to hear the matter.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? I do not.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? I have.

23. What do you feel is the appropriate demeanor for a judge?

Dignified, open-minded, calm, respectful and engaged, so that the parties, their counsel, anyone in the gallery and the jurors feel the judge is listening, analyzing the arguments, and applying the law in order to rule on every issue that arises in the course of a trial or hearing.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

The conduct I outlined above would be equally applicable out of court as well as in.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

I do not believe it is appropriate for judges to allow their anger to manifest itself when dealing with anyone in court, including a criminal defendant. Judges should remember that attorneys are advocates for their client's positions and, to the extent there is no merit to their position, a ruling against counsel's position and an instruction to move on should obviate the need to get angry. Similarly, pro se litigants, who are unfamiliar with court procedure, should be given sufficient leeway to educate them on procedure and advance the administration of justice without getting angry. A judge can convey displeasure with inappropriate conduct without raising his or her voice and, if necessary, may discuss the problem with counsel or the pro se litigant outside the hearing of the jury, if there is one.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

To date, I have spent a little less than Twenty-Two Dollars (\$22.00) on paper for letters and postage.

27. If you are a sitting judge, have you used judicial letterhead or the

- services of your staff while campaigning for this office? N/A
28. Have you sought or received the pledge of any legislator prior to this date?  
I have notified legislators in my judicial circuit that I intended to seek the vacant position, but have not sought or received any pledge at the present.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?  
I have not received any pledge, conditional or otherwise.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
I have not asked anyone to contact members of the General Assembly on my behalf, nor am I aware of any friends or colleagues contacting members of the General Assembly on my behalf.
31. Have you contacted any members of the Judicial Merit Selection Commission?  
I have contacted members of the legislative delegation for the judicial circuit where I reside, merely to advise them of my intention to seek the vacant position. My correspondence did not seek any pledges or commitments.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
I am familiar with the prohibition and will abide by it.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/David Whitten Wolf

Sworn to before me this 12<sup>th</sup> day of September, 2010.

Notary Public for S.C.

My Commission Expires: 5-19-2020\_\_\_\_\_